MONTANA LEGISLATIVE HISTORY

Chapter 68 19 82

Bill H 133 S _____ Original bill & history ✓ C

H. Committee on Business & Labor			S. Committee on Business & Industry SM		
Hearing Date(s)	Jan 19	✓ C	Hearing Date(s)	Feb 20	✓ C
	Jan 29	✓ C			C
		C			C
		C			C
Date Out	Jan 29	✓ C		Feb 20	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/21	TRANSMITTED TO GOVERNOR		
3/25	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 213 EFFECTIVE DATE: 10/01/87		

HB 131 INTRODUCED BY ELLISON
PROVIDE AUTHORITY FOR DEPARTMENT OF FISH, WILDLIFE, & PARKS TO SELL EXCESS FISH EGGS

1/09	INTRODUCED		
1/09	REFERRED TO FISH & GAME		
1/15	HEARING		
1/23	COMMITTEE REPORT--BILL PASSED		
1/26	2ND READING PASSED	95	3
1/27	3RD READING PASSED	96	3
	TRANSMITTED TO SENATE		
1/28	REFERRED TO FISH & GAME		
3/05	HEARING		
3/06	COMMITTEE REPORT--BILL CONCURRED		
3/10	2ND READING CONCURRED	50	0
3/12	3RD READING CONCURRED	48	2
	RETURNED TO HOUSE		
3/16	SIGNED BY SPEAKER		
3/17	SIGNED BY PRESIDENT		
3/18	TRANSMITTED TO GOVERNOR		
3/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 152 EFFECTIVE DATE: 10/01/87		

HB 132 INTRODUCED BY FRITZ
PERMIT PUBLIC EMPLOYEES RETIREMENT SYSTEM MEMBER TO QUALIFY OUT-OF-STATE EMPLOYMENT AS CREDITABLE SERVICE

1/09	INTRODUCED		
1/09	REFERRED TO STATE ADMINISTRATION		
1/10	FISCAL NOTE REQUESTED		
1/14	HEARING		
1/14	COMMITTEE REPORT--BILL PASSED		
1/16	FISCAL NOTE RECEIVED		
1/17	2ND READING PASSED	96	0
1/19	3RD READING PASSED	95	5
	TRANSMITTED TO SENATE		
1/21	REFERRED TO STATE ADMINISTRATION		
1/28	HEARING		
1/29	COMMITTEE REPORT--BILL CONCURRED		
2/02	2ND READING CONCURRED	49	0
2/04	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
2/07	SIGNED BY SPEAKER		
2/09	SIGNED BY PRESIDENT		
2/09	TRANSMITTED TO GOVERNOR		
2/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 11 EFFECTIVE DATE: 7/01/87		

HB 133 INTRODUCED BY WILLIAMS, M., ET AL.
MAKE CONSISTENT CERTAIN TERMS IN MONTANA ALCOHOLIC BEVERAGE CODE
BY REQUEST OF DEPARTMENT OF REVENUE

1/09	INTRODUCED		
1/09	REFERRED TO BUSINESS & LABOR		
1/19	HEARING		
1/27	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/29	2ND READING PASSED	99	0
1/30	3RD READING PASSED	96	0
	TRANSMITTED TO SENATE		
2/02	REFERRED TO BUSINESS & INDUSTRY		
2/20	HEARING		
2/20	COMMITTEE REPORT--BILL CONCURRED		
3/02	2ND READING CONCURRED	47	0
3/04	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
3/06	SIGNED BY SPEAKER		
3/07	SIGNED BY PRESIDENT		
3/09	TRANSMITTED TO GOVERNOR		
3/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 68 EFFECTIVE DATE: 10/01/87		

HB 134 INTRODUCED BY ADDY
NO PUBLICATION REQUIRED WHEN PARENTS/GUARDIANS CONSENT TO NAME CHANGE

1/09	INTRODUCED		
1/09	REFERRED TO JUDICIARY		
1/15	HEARING		
1/16	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/20	2ND READING PASSED	94	3
1/21	3RD READING PASSED	98	1
	TRANSMITTED TO SENATE		
1/22	REFERRED TO JUDICIARY		
2/10	HEARING		
3/04	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/07	2ND READING CONCURRED	47	0
3/10	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/17	2ND READING AMENDMENTS CONCURRED	92	0
3/18	3RD READING AMENDMENTS CONCURRED	93	0
3/21	SIGNED BY SPEAKER		
3/23	SIGNED BY PRESIDENT		
3/23	TRANSMITTED TO GOVERNOR		
3/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 233 EFFECTIVE DATE: 10/01/87		

HB 135 INTRODUCED BY ADDY, ET AL.
REQUIRE SIX-PERSON JURY IN ALL CIVIL CASES TRIED IN DISTRICT COURT

1/10	INTRODUCED		
1/10	REFERRED TO JUDICIARY		
1/16	HEARING		
1/23	TABLED IN COMMITTEE		

HB 136 INTRODUCED BY DRISCOLL, ET AL.
INCREASE GAS AND DIESEL FUEL TAX FROM 17 TO 20 CENTS PER GALLON

1/10	INTRODUCED		

HOUSE BILL NO. 133

INTRODUCED BY M. WILLIAMS, BLAYLOCK, HARRINGTON, MAZUREK, B. BROWN, HARP

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

JANUARY 9, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
JANUARY 27, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 28, 1987	PRINTING REPORT.
JANUARY 29, 1987	SECOND READING, DO PASS.
JANUARY 30, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 2, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
FEBRUARY 20, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 2, 1987	SECOND READING, CONCURRED IN.
MARCH 4, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 5, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

H.B. BILL NO. 133

INTRODUCED BY M Williams Blaylock Harrington

BY REQUEST OF THE DEPARTMENT OF REVENUE Bob Brown HARP Blaylock

A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE CONSISTENT CERTAIN TERMS IN THE MONTANA ALCOHOLIC BEVERAGE CODE; AND AMENDING SECTIONS 16-1-101, 16-1-104 THROUGH 16-1-106, 16-1-201, 16-1-204, 16-1-303, 16-1-405, 16-2-101, 16-2-103, 16-2-104, 16-2-106 THROUGH 16-2-108, 16-2-203, 16-2-302, 16-3-101, 16-3-105, 16-3-106, 16-3-310, 16-3-401, 16-4-106, 16-4-108, 16-4-201, 16-4-202, 16-4-208, 16-4-302, 16-4-401, 16-4-404, 16-4-405, 16-4-411, 16-4-501, 16-6-104, 16-6-301, 16-6-305, 16-6-306, 16-6-309, 16-6-312, AND 16-6-313, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-1-101, MCA, is amended to read:

"16-1-101. Citation -- declaration of policy -- subject matters of regulation. (1) Chapters 1 through 6 of this title may be cited as the "Montana Alcoholic Beverage Code".

(2) It is hereby declared to be the policy of the state of Montana to effectuate and ensure the entire control of the manufacture, sale, and distribution of ~~liquor~~ alcoholic beverages within the state of Montana, as that term is defined in this code, subject to the authority of the state of Montana through the Montana department of revenue.

(3) This code is an exercise of the police power of the state, in and for the protection of the welfare, health, peace, morals, and safety of the people of the state, and its provisions shall be construed for the accomplishment of such purposes."

Section 2. Section 16-1-104, MCA, is amended to read:

"16-1-104. Intent and construction of code. The purpose and intent of this code are to prohibit transactions in ~~liquor~~ alcoholic beverages which take place wholly within the state of Montana except under state control as specifically provided by this code, and every section and provision of this code shall be construed accordingly. The provisions of this code dealing with the importation, sale, and disposition of ~~liquor~~ alcoholic beverages within the state, through the instrumentality of a department and otherwise, provide the means by which such state control shall be made effective, and nothing in this code shall be construed as forbidding, affecting, or regulating any transaction which is not subject to the legislative authority of the state."

Section 3. Section 16-1-105, MCA, is amended to read:

"16-1-105. Divisions of code. This code is divided into six chapters. Chapter 1 relates to the authority of

INTRODUCED BILL
HB-133

the department of revenue to administer this code and the powers and functions of the department. Chapter 2 relates to the establishment of state stores and the keeping and selling of liquors. Chapter 3 relates to the control of liquor, wine, and beer. Chapter 4 relates to license administration. Chapter 5 ~~relates~~ (now repealed) related to identification cards. Chapter 6 relates to enforcement."

Section 4. Section 16-1-106, MCA, is amended to read:

"16-1-106. Definitions. As used in this code, the following definitions apply:

(1) "Agency agreement" means an agreement between the department and a person appointed to sell liquor and table wine as a commission merchant rather than as an employee.

(2) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(3) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than .5% of alcohol by volume.

(4) "Beer" means a malt beverage containing not more than 7% of alcohol by weight.

(5) "Beer importer" means a person other than a brewer who imports malt beverages.

(6) "Brewer" means a person who produces malt beverages.

(7) "Department" means the department of revenue.

(8) "Immediate family" means a spouse, dependent children, or dependent parents.

(9) "Import" means to transfer beer or table wine from outside the state of Montana into the state of Montana.

(10) "Industrial use" means a use described as industrial use by the federal Alcohol Administration Act and the federal rules and regulations of 27 CFR.

(11) "Liquor" means an alcoholic beverage except beer and table wine.

(12) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom and with or without other wholesome products suitable for human food consumption.

(13) "Package" means a container or receptacle used for holding an alcoholic beverage.

(14) "Posted price" means the retail price of liquor and table wine as fixed and determined by the department and in addition thereto an excise and license tax as provided in this code.

(15) "Proof gallon" means a U.S. gallon of liquor at 60

degrees on the Fahrenheit scale that contains 50% of alcohol by volume.

(16) "Public place" means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort.

(17) "Rules" means rules published by the department pursuant to this code.

(18) "State liquor facility" means a facility owned or under control of the department for the purpose of receiving, storing, transporting, or selling alcoholic beverages.

(19) "State liquor store" means a retail store operated by the department in accordance with this code for the purpose of selling liquor and table wine.

(20) "Storage depot" means a building or structure owned or operated by a brewer at any point in the state of Montana off and away from the premises of a brewery, and which structure is equipped with refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute beer as permitted by this code.

(21) "Subwarehouse" means a building or structure owned or operated by a licensed beer wholesaler or table wine distributor, located at a site in Montana other than the site of such beer wholesaler's or table wine distributor's warehouse or principal place of business, and used for the

receiving, storage, and distribution of beer or table wine as permitted by this code.

(22) "Table wine" means wine as defined below which contains not more than 16% alcohol by volume.

(23) "Warehouse" means a building or structure located in Montana owned or operated by a licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer or table wine as permitted by this code.

(24) "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined as above but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine."

Section 5. Section 16-1-201, MCA, is amended to read:

"16-1-201. Acts not covered by code. (1) Nothing in this code shall prevent any brewer, distiller, or other person, duly licensed under the provisions of any statute of

the United States of America for the manufacture of ~~liquor~~ alcoholic beverages, from having or keeping ~~liquor~~ alcoholic beverages in a place and in the manner authorized by or under any such statute.

(2) It is hereby declared to be the policy of the state of Montana that the manufacture of ~~liquor~~ alcoholic beverages, including the distillation, rectification, bottling, and processing as these terms are defined under the provisions of the laws of the United States, shall be authorized and permitted by any brewer, distiller, rectifier, or other person duly licensed under any provision of any statute of the United States of America in a place and in the manner authorized by or under any statute of the United States, provided the department may make such rules as the department deems necessary with respect thereto not inconsistent with this code or with the statutes of the United States of America or regulations issued under the provisions of the federal Alcohol Administration Act, Title 27, United States Code, sections 201 through 212, inclusive, or regulations issued under the provisions of the Internal Revenue Code, Title 26, United States Code, sections 5001 through 5693, inclusive.

(3) Nothing in this code shall prevent:

(a) the sale of liquor or table wine by any person to the department;

(b) the purchase, importation, and sale of liquor and table wine by the department for the purposes of and in accordance with this code."

Section 6. Section 16-1-204, MCA, is amended to read:

"16-1-204. Licensed hospital or health care facility. Any person in charge of an institution regularly conducted as a licensed hospital or health care facility may administer ~~liquor~~ alcoholic beverages purchased by him to any patient or inmate of the institution and may charge for the ~~liquor~~ alcoholic beverages so administered."

Section 7. Section 16-1-303, MCA, is amended to read:

"16-1-303. Department rules. (1) The department may make such rules not inconsistent with this code as to the department seem necessary for carrying out the provisions of this code and for the efficient administration thereof.

(2) Without thereby limiting the generality of the provisions contained in subsection (1) hereof, it is declared that the power of the department to make rules in the manner set out in that subsection shall extend to and include the following:

(a) regulating the equipment and management of state stores and warehouses in which liquor or table wine is kept or sold and prescribing the books and records to be kept therein;

(b) prescribing the duties of the employees of the

liquor division and regulating their conduct while in the discharge of their duties;

(c) governing the purchase of liquor and table wine and the furnishing of liquor and table wine to state stores established under this code;

(d) determining the classes, varieties, and brands of liquor and table wine to be kept for sale at any state store;

(e) prescribing, subject to this code, the hours during which state liquor stores shall be kept open for the sale of alcoholic beverages;

(f) providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each class, variety, or brand of liquor and table wine kept for sale under this code;

(g) prescribing forms to be used for the purpose of this code or of the rules made thereunder and the terms and conditions in permits and licenses issued and granted under this code;

(h) prescribing the form of records of purchase of liquor and table wine and the reports to be made thereon to the division and providing for inspection of the records so kept;

(i) prescribing the manner of giving and serving notices required by this code or the rules thereunder;

(j) prescribing the fees payable in respect of permits and licenses issued under this code for which no fees are prescribed in this code and prescribing the fees for anything done or permitted to be done under the rules made thereunder;

(k) prescribing, subject to the provisions of this code, the conditions and qualifications necessary for the obtaining of ~~a--liquor--or-beer-license~~ alcoholic beverage licenses and the books and records to be kept and the returns to be made by the licensees and providing for the inspection of such licensed premises;

(l) specifying and describing the place and the manner in which ~~liquor-or-beer~~ alcoholic beverages may be lawfully kept or stored;

(m) specifying and regulating the time and periods when and the manner, methods, and means by which vendors and brewers shall deliver ~~liquor~~ alcoholic beverages under this code and the time and periods when and the manner, methods, and means by which ~~liquor~~ alcoholic beverages, under this code, may be lawfully conveyed or carried;

(n) governing the conduct, management, and equipment of any premises licensed to sell ~~liquor--or--beer~~ alcoholic beverages under this code;

(o) providing for the imposition and collection of taxes and making rules respecting returns, accounting, and

payment of the taxes to the department.

(3) Whenever it is provided in this code that any act, matter, or thing may be done if permitted or authorized by the rules or may be done in accordance with the rules or as provided by the rules, the department, subject to the restrictions set out in subsection (1) hereof, shall have the power to make rules respecting such act, matter, or thing."

Section 8. Section 16-1-405, MCA, is amended to read:

"16-1-405. Use of license tax proceeds. The license tax moneys when so apportioned shall be deposited to the credit of the general funds of said incorporated cities, towns, and counties and shall be expended by said incorporated cities, towns, and counties for law enforcement and the regulation and control of the sale of ~~liquor~~ alcoholic beverages and the use thereof."

Section 9. Section 16-2-101, MCA, is amended to read:

"16-2-101. Establishment and closure of state liquor stores -- kinds and prices of liquor and table wine. (1) (a) The department shall establish and maintain one or more stores, to be known as "state liquor stores", as the department finds feasible for the sale of liquor and table wine in accordance with the provisions of this code and the rules made thereunder.

(b) The department shall enter into an agency

agreement or employ the necessary help to operate said stores and shall designate the duties to be performed by the agent or employees.

(2) The department may from time to time fix the prices at which the various classes, varieties, and brands of liquor and table wine may be sold, and prices shall be the same at all state stores."

Section 10. Section 16-2-103, MCA, is amended to read:

"16-2-103. Duplicate invoices of sales required. (1) The state liquor store shall, upon each sale of liquor or table wine to any licensee, issue a duplicate invoice of the liquor or table wine purchased, as provided by the department, a copy of which shall be delivered to the licensee and one copy retained at such store.

(2) The invoice shall show the date of purchase, name of employee making the sale, the quantity of each kind of liquor or table wine purchased, the price paid therefor, the name of the licensee, and the number of the license, with such other information as may be required by the department.

(3) The licensee shall keep and retain his duplicate invoice of all purchases made by him from the state liquor store, which shall at all times be subject to inspection by the duly authorized officers, agents, and employees of the department."

Section 11. Section 16-2-104, MCA, is amended to read:

"16-2-104. Hours. (1) State liquor stores shall be and remain open during such period of the day as the department shall deem advisable. The stores shall be closed for the transaction of business on legal holidays and between the close of normal business Saturday p.m. up to the opening of normal business Tuesday a.m. as set by department rule.

(2) No sale or delivery of liquor or table wine shall be made on or from the premises of any state liquor store nor shall any store be open for the sale of liquor or table wine:

(a) on any holiday recognized by state law;

(b) during such other period and on such other days as the department may direct."

Section 12. Section 16-2-106, MCA, is amended to read:

"16-2-106. Purchase price in advance. A store manager may sell to any person such liquor and table wine as that person is entitled to purchase in conformity with the provisions of this code and the rules made thereunder, provided that no delivery shall take place until the purchaser has paid the purchase price."

Section 13. Section 16-2-107, MCA, is amended to read:

"16-2-107. No open ~~liquor~~ alcoholic beverage container or ~~liquor~~ alcoholic beverage consumption on premises of state store. No officer, clerk, or agent of the department employed in a state store shall allow any ~~liquor~~ alcoholic

beverage container to be opened on the premises of a state store or allow any ~~liquor~~ alcoholic beverage to be consumed on the premises of a state store, nor shall any person open ~~a liquor~~ an alcoholic beverage container or consume any ~~liquor~~ alcoholic beverage on such premises."

Section 14. Section 16-2-108, MCA, is amended to read:

"16-2-108. Disposition of money received. All moneys received from the sale of liquor and table wine at the state liquor stores shall be deposited in the enterprise fund in the state treasury to the credit of the department. The department is hereby authorized to purchase liquor and table wine from moneys deposited to its account in the enterprise fund. The department shall pay from its account in the enterprise fund its administrative expenses, subject to the limits imposed by legislative appropriation. No obligation created or incurred by the department may ever be or become a debt or claim against the state of Montana but shall be payable by the department solely from funds derived from the operation of state liquor stores. The department shall pay into the state treasury to the credit of the general fund the receipts from all taxes and licenses collected by it and also the net proceeds from the operation of state liquor stores."

Section 15. Section 16-2-203, MCA, is amended to read:

"16-2-203. Department sales to licensees. The

department may sell through its stores to licensees licensed under this code all kinds of liquor~~,--wine--containing--more than--14%-alcohol-by-volume,-and-cordials-kept-in-stock,~~ and table wine at the posted price thereof in the store in which the liquor ~~is~~ and table wine are sold. All sales shall be upon a cash basis."

Section 16. Section 16-2-302, MCA, is amended to read:

"16-2-302. State distribution. The department may import and distribute one or more named table wines to one or more designated state liquor stores, in the same manner as if the ~~table~~ wine contained more than ~~14%~~ 16% alcohol by volume."

Section 17. Section 16-3-101, MCA, is amended to read:

"16-3-101. ~~liquor~~ Alcoholic beverages dispensed only in accordance with code. No brewer, beer importer, distiller, or manufacturer of ~~liquor~~ alcoholic beverages shall, within the state, by himself, his clerk, servant, or agent, give to any person any ~~liquor~~ alcoholic beverage except as may be permitted by and in accordance with the rules made under this code."

Section 18. Section 16-3-105, MCA, is amended to read:

"16-3-105. Restrictions on ~~liquor~~ alcoholic beverages in hotels. Except in the case of ~~liquor--or--beer~~ alcoholic beverages kept or consumed in premises for which a license has been granted under the law and which form a part of a

hotel, no person shall:

(1) keep or consume ~~liquor~~ alcoholic beverages in any part of a hotel other than a private guest room;

(2) keep or have any ~~liquor~~ alcoholic beverage in any room in a hotel unless he is a bona fide guest of the hotel and is duly registered in the office of the hotel as an occupant of that room."

Section 19. Section 16-3-106, MCA, is amended to read:

"16-3-106. Conveyance of liquors, table wines, and beer -- opening ~~liquor~~ alcoholic beverages during transit forbidden. (1) It shall be lawful to carry or convey liquor or table wine to any state store and to and from any warehouse or depot established by the department for the purposes of this code, and when permitted to do so by this code and the rules made thereunder and in accordance therewith, it shall be lawful for any common carrier or other person to carry or convey liquor or table wine sold by a vendor from a state store or beer, when lawfully sold by a brewer, from the premises wherein such beer was manufactured or from premises where the beer may be lawfully kept and sold to any place to which the same may be lawfully delivered under this code and the rules made thereunder.

(2) No common carrier or any other person shall open, break, or allow to be opened or broken any package or vessel containing ~~liquor~~ an alcoholic beverage or drink or use or

allow to be drunk or used any ~~liquor~~ alcoholic beverage therefrom while being carried or conveyed."

Section 20. Section 16-3-310, MCA, is amended to read:

"16-3-310. Lapse of license for nonuse. Any retail license issued pursuant to this code (including any retail license to sell beer and table wine for off-premises consumption) not actually used in a going establishment for 90 days shall automatically lapse. Upon determining the fact of nonuse for such period, the department shall cancel such license of record and no portion of the fee paid therefor shall be refundable. The provisions of this section shall not apply to the license of any licensee whose premises are operated on a seasonal basis in connection with a bona fide dude ranch, resort, park hotel, tourist facility, or like business, provided such licensee has secured written authority from the department to close and has licensed premises for a specified period of greater than 90 days' duration. Should the department determine that such lapse was reasonably beyond the control of the licensee, then the lapse provision shall not apply."

Section 21. Section 16-3-401, MCA, is amended to read:

"16-3-401. Public policy. The public policy of the state of Montana is to maintain a system for the importation and sale of table wine by the state through state liquor facilities and provide for, regulate, and control the

acquisition, importation, and distribution of table wine ~~containing--not--more-than-14%-alcohol-by-volume~~ by licensed table wine distributors and the state."

Section 22. Section 16-4-106, MCA, is amended to read:

"16-4-106. Beer and table wine license transfers. A transfer of any brewer's, beer wholesaler's, table wine distributor's, beer retailer's, or table wine retailer's license may be made on application to the department with the consent of the department, provided that the transferee qualifies under this code."

Section 23. Section 16-4-108, MCA, is amended to read:

"16-4-108. ~~Wine~~ Table wine distributor's license. (1) Any person desiring to sell and distribute table wine at wholesale to retailers under the provisions of this code shall apply to the department of revenue for a license to do so and shall tender with his application the annual license fee of $400 and the department may issue licenses to qualified applicants in accordance with the provisions of this code.

(2) All table wine distributors' licenses issued in any year expire on June 30 at midnight of such year.

(3) No license fee may be imposed upon table wine distributors by a municipality or any other political subdivision of the state.

(4) The license shall be at all times prominently

displayed in the place of business of such table wine distributor.

(5) An applicant shall have a fixed place of business, sufficient capital, the facilities, storehouse, receiving house or warehouse for the receiving of, storage, handling, and moving of table wine in large and jobbing quantities for distribution and sale in original packages to other licensed table wine distributors or licensed retailers. Each table wine distributor is entitled to only one wholesale table wine license, which license shall be issued for his principal place of business in Montana. A duplicate license may be issued for one subwarehouse only in Montana for each table wine distributor's license. The duplicate license shall at all times be prominently displayed at said subwarehouse. A table wine distributor may also hold a license to sell beer at wholesale but shall not hold or have any interest, direct or indirect, in any license to sell beer, table wine, or liquor at retail.

(6) If the applicant is a foreign corporation, the corporation must be authorized to do business in Montana."

Section 24. Section 16-4-201, MCA, is amended to read:

"16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail (an all-beverages license) in accordance with the provisions of this code and the rules of

the department may be issued to any person who is approved by the department as a fit and proper person to sell such beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of such cities and towns shall be determined on the basis of population prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of such towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 3,000 inhabitants and within a distance of 5 miles from the corporate limits of such cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of over 3,000 inhabitants and within a distance of 5 miles from the corporate limits thereof, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants.

(2) The number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits

thereof, shall govern the number of retail licenses that may be issued for use within such cities and towns and within a distance of 5 miles from the corporate limits thereof. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail licenses that may be issued for use in both of such municipalities and within a distance of 5 miles from their respective corporate limits shall be determined on the basis of the combined populations of both of such municipalities and may not exceed the foregoing limitations. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(3) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209, which are in excess of the foregoing limitations shall be renewable, but no new licenses may be issued in violation of such limitations.

(4) Such limitations do not prevent the issuance of a nontransferable and nonassignable (as to ownership only) retail license to an enlisted men's, noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to any post of a

nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if such veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

(5) The number of retail all-beverages licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits thereof may not be more than one license for each 750 population of the county after excluding the population of incorporated cities and incorporated towns in such county."

Section 25. Section 16-4-202, MCA, is amended to read:

"16-4-202. Resort licenses. (1) It is the intent and purpose of this section to encourage the growth of quality recreational resort facilities in undeveloped areas of the state and to provide for the orderly growth of existing recreational sites by the establishment of resort areas within which retail ~~liquor~~ all-beverages licenses may be issued by the department under the terms and as more particularly prescribed below. In addition to the licenses as otherwise set forth in this code, the department may issue resort retail ~~liquor~~ all-beverages licenses in a resort area.

(2) For the purposes of this section, a resort area is

defined as a recreational facility meeting the qualifications determined by the department as hereinafter provided.

(3) The department shall determine that the area for which licenses are to be issued is a resort area, such determination to be made under and pursuant to rules to be first promulgated on or before December 31, 1975.

(4) In addition to the other requirements of this code, a resort area, for the purposes of qualification for the issuance of a resort retail ~~liquor~~ all-beverages license, must have a current actual valuation of resort or recreational facilities, including land and improvements thereon, of not less than $500,000, at least half of which valuation must be for a structure or structures within the resort area, and must be under the sole ownership or control of one person or entity at the time of the filing of the resort area plat referred to in subsection (5) of this section. The word control shall mean lands held under lease, option, or permit.

(5) The resort area must be determined by the resort developer or landowner by a plat setting forth the resort boundaries, designating the ownership of the lands within the resort area, which plat must be verified by the resort developer or landowner and filed with the department prior to the filing of any applications by individuals for

licenses within the resort area. Such plat must show the location and general design of the buildings and other improvements to be built in said area in which resort retail ~~liquor~~ all-beverages licenses are to or may be located. A master plan for the development of the area may be filed by the resort developer in satisfaction of this section.

(6) Upon such filing the department shall forthwith schedule a public hearing to be held in Helena, Montana, to determine whether the facility proposed by the resort developer or landowner is a resort area within the meaning of the rules of the department. At least 30 days prior to the date of the hearing, the department shall publish notice thereof, with a description of the location of the proposed resort area, in a newspaper published in the county or counties in which the resort is located, once a week for 4 consecutive weeks. Each resort developer or landowner shall, at the time of filing his application, pay to the department an amount sufficient to cover the costs of said publication.

(7) Persons may present statements to the department at the hearing in person or in writing in opposition or support of the plat.

(8) Within 30 days of the hearing, the department shall accept or reject the plat. If rejected the department must state its reasons and set forth the conditions, if any,

under which the plat will be accepted, and the decision of the department may be reviewed pursuant to the review procedure set forth in 16-4-406.

(9) Once filed with the department, the boundaries of a resort may not be changed without full hearing as above provided and the prior approval of the department, which approval shall be according to public convenience and necessity.

(10) (a) When the department has accepted a plat and a given resort area has been determined, applications may then be filed with the department by persons for the issuance of resort retail ~~liquor~~ all-beverages licenses within the resort area.

(b) Each applicant must submit plans showing the location, appearance, and floor plan of the premises for which application for a license is made.

(c) If an applicant otherwise qualifies for a resort license but the premises to be licensed are still in construction or are otherwise incomplete at the time of such application, the department shall issue a letter stating that the license will be issued at such time as the qualifications for a licensed premises have been met, setting forth such time limitations and requirements as the department may establish.

(11) In addition to the restrictions on sale or

transfer of a license as provided in 16-4-204 and 16-4-404, no resort retail ~~liquor~~ all-beverages license may be sold or transferred for operation at a location outside of the boundaries of the resort area.

(12) A resort retail ~~liquor~~ all-beverages license shall not be subject to the quota limitations set forth in 16-4-201, and if the requirements of this section have been met, a resort retail ~~liquor~~ all-beverages license shall be issued by the department on the basis that the department has determined that such license is justified by public convenience and necessity, in accordance with the procedure required in 16-4-207."

Section 26. Section 16-4-208, MCA, is amended to read:

"16-4-208. Airport all-beverages license. (1) The department of revenue shall issue one all-beverages license, to be known as a public airport all-beverages license, for use at each publicly owned airport served by scheduled airlines and enplaning and deplaning a minimum total of 20,000 passengers annually when:

(a) application is made;

(b) upon finding that this license is justified by public convenience and necessity, including the convenience and necessity of the public traveling by scheduled airlines; and

(c) following a hearing as provided in 16-4-207.

(2) Application shall be made by the agency owning and operating the airport. The agency owning and operating the airport may lease the airport all-beverages license to an individual or entity approved by the department.

(3) A public airport all-beverages license and all retail ~~liquor~~ alcoholic beverage sales thereunder shall be subject to all statutes and rules governing all-beverages licenses.

(4) The department of revenue shall issue a public airport all-beverages license to a qualified applicant regardless of the number of all-beverages licenses already issued within the all-beverages license quota area in which the airport is situated."

Section 27. Section 16-4-302, MCA, is amended to read:

"16-4-302. Passenger carrier licenses. Common carriers serving Montana may serve ~~beer--and---liquor~~ alcoholic beverages to passengers in aircraft over or railroad cars in the state of Montana upon the issuance of a retail ~~beer-and liquor~~ all-beverages license by the department for that purpose. Such licenses shall be issued on an annual basis to common carriers making application therefor and shall be effective from July 1 of the current year to July 1 of the following year."

Section 28. Section 16-4-401, MCA, is amended to read:

"16-4-401. License as privilege -- criteria for

decision on application. (1) A license under this code is a privilege which the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in subsection (6), in the case of a license that permits on-premises consumption, the department must find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant will not possess an ownership interest in more than one establishment licensed under this chapter for all-beverages sales;

(ii) the applicant or any member of his immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of ~~beer, wine, or liquor~~ alcoholic beverages;

(iii) the applicant is a resident of the state and is qualified to vote in a state election;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under the age of 19 years; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (2)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a) of this section;

(iii) the corporation is authorized to do business in Montana; and

(iv) in the case of a corporation not listed on a national stock exchange, each owner of stock meets the requirements of subsection (2)(a)(i); and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (2)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (2)(b).

(3) In the case of a license that permits only off-premises consumption, the department must find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant will not possess an ownership interest in more than one establishment licensed under this chapter for all-beverages sales;

(ii) the applicant or any member of his immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of ~~beer, wine, or liquor~~ alcoholic beverages;

(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, his rights have been restored;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under the age of 19 years; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (3)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a) of this section; and

(iii) the corporation is authorized to do business in Montana; and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (3)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (3)(b).

(4) In the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic beverage, the department must find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail alcoholic beverages sales;

(ii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, his rights have been restored;

(iii) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the state and local governments;

(iv) the applicant is not under the age of 19 years; and

(v) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (4)(a)(ii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (4)(a) of this section;

(iii) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage; and

(iv) the corporation is authorized to do business in Montana; and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (4)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (4)(b).

(5) In the case of a corporate applicant, the

requirements of subsections (2)(b), (3)(b), and (4)(b) apply separately to each class of stock.

(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302."

Section 29. Section 16-4-404, MCA, is amended to read:

"16-4-404. Protest period -- contents of license -- posting -- privilege -- transfer. (1) No license may be issued until on or after the date set in the notice for hearing protests.

(2) Every license issued under this code shall set forth the name of the person to whom issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under said license, and such other information as the department shall deem necessary. If the licensee is a partnership or if more than one person has any interest in the business operated under the license, the names of all persons in the partnership or interested in the business must appear on the license. Every license must be posted in a conspicuous place on the premises wherein the business authorized under the license is conducted, and such license shall be exhibited upon request to any authorized representative of the department or to any peace officer of the state of

Montana.

(3) Any license issued under the provisions of this code shall be considered a privilege personal to the licensee named in the license and shall be good until the expiration of the license unless sooner revoked or suspended.

(4) A license may be transferred to the executor or administrator of the estate of any deceased licensee when such estate consists in whole or in part of the business of selling ~~liquor~~ alcoholic beverages under a license, and in such event the license may descend or be disposed of with the business to which it is applicable under appropriate probate proceedings.

(5) In the event of a major loss or damage to licensed premises by unforeseen natural causes or in case of expiration of lease of the licensed premises or in the event of eviction or increase of rent by the landlord (in case of rented licensed premises) or in case of proposed removal of license to premises as substantially suited for the retail ~~liquor~~ alcoholic beverages business as the premises vacated, the licensee may apply to the department for a transfer of the license to different premises. The department may in its discretion permit a transfer in such cases if it appears to the department that such a transfer is required to do justice to the licensee applying for the transfer. The

department shall in no event nor for any cause permit a transfer to different premises where the sanitary, health, and service facilities are less satisfactory than such facilities which exist or had existed at the premises from which the transfer is proposed to be made.

(6) Upon a bona fide sale of the business operated under any license, the license may be transferred to a qualified purchaser. No transfer of any license as to person or location shall be effective unless and until approved by the department, and any licensee or transferee or proposed transferee who operates or attempts to operate under any supposedly transferred license prior to the approval of such transfer by the department, endorsed upon the license in writing, shall be considered as operating without a license and the license affected may be revoked or suspended by the department. The department may, within its discretion, permit a qualified purchaser to operate the business to be transferred pending final approval, providing the application for transfer has been filed with the department.

(7) Except as provided in subsections (2) through (6) and 16-4-204, no license shall be transferred or sold nor shall it be used for any place of business not described in the license; provided, however, that such license may be subject to mortgage and other valid liens, in which event

the name of the mortgagee, upon application to and approval of the department, must be endorsed on the license."

Section 30. Section 16-4-405, MCA, is amended to read:

"16-4-405. Denial of license. (1) The department may deny the issuance of a retail ~~beer--or--all-beverages~~ alcoholic beverages license if it determines that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.

(2) No retail license may be issued by the department for any premises situated within any zone of such city or town where the sale of ~~beer-or-liquor~~ alcoholic beverages is prohibited by ordinance, a certified copy of which has been filed with the department.

(3) Nor may a license under this code be issued if the department finds from the evidence at the hearing that the welfare of the people residing in the vicinity of the place for which such license is desired will be adversely and seriously affected or that the purposes of this code will not be carried out by the issuance of such license."

Section 31. Section 16-4-411, MCA, is amended to read:

"16-4-411. Appeals concerning ~~liquor---and----beer~~ alcoholic beverages laws. (1) Any interested party shall have the right to appeal any decision of the department of revenue concerning the issuance, transfer, suspension, or revocation of ~~beer-or-liquor~~ alcoholic beverages licenses to

the district court in the county in which the issuance, transfer, suspension, or revocation occurred or, at the appellant's option, in the district court of the first judicial district.

(2) The appeal must be in conformity with the provisions of Title 2, chapter 4, part 7."

Section 32. Section 16-4-501, MCA, is amended to read:

"16-4-501. License and permit fees. (1) Each beer licensee licensed to sell either beer or table wine only, or both beer and table wine, under the provisions of this code, shall pay an annual license fee as follows:

(a) each brewer and each beer importer, wherever located, whose product is sold or offered for sale within the state, $500; for each storage depot, $400;

(b) each beer wholesaler, $400; each table wine distributor, $400; each subwarehouse, $400;

(c) each beer retailer, $200; ~~with--a--wine--license amendment,--an--additional--$200;~~

(d) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license; for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction with beer, $200;

(e) any unit of a nationally chartered veterans' organization, $50.

(2) The permit fee under 16-4-301(1) is computed at the rate of $15 a day for each day beer and table wine are sold at those events lasting 2 or more days but in no case be less than $30.

(3) The permit fee under 16-4-301(2) is $10 for the sale of beer and table wine only or $20 for the sale of all alcoholic beverages.

(4) Passenger carrier licenses shall be issued upon payment by the applicant of an annual license fee in the sum of $300.

(5) The annual license fee for a license to sell wine on the premises, when issued as an amendment to a beer-only license pursuant to 16-4-105, is $200.

(6) The annual fee for resort retail ~~liquor~~ all-beverages licenses within a given resort area shall be $2,000 for each license.

(7) Each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:

(a) except as hereinafter provided, for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, $250 for a unit of a nationally chartered veterans' organization and $400 for all other licensees;

(b) except as hereinafter provided, for each license

in incorporated cities with a population of more than 2,000 and less than 5,000 or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, $350 for a unit of a nationally chartered veterans' organization and $500 for all other licensees;

(c) except as hereinafter provided, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, $500 for a unit of a nationally chartered veterans' organization and $650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, $650 for a unit of a nationally chartered veterans' organization and $800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city

or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and shall be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and shall be paid by the applicant.

(f) an applicant for the issuance of an original license to be located in areas described in subsection (d) of this subsection shall provide an irrevocable letter of credit from a financial institution that guarantees that applicant's ability to pay a $20,000 license fee. A successful applicant shall pay a one-time original license fee of $20,000 for any such license issued. The one-time license fee of $20,000 shall not apply to any transfer or renewal of a license duly issued prior to July 1, 1974. All licenses, however, are subject to the annual renewal fee.

(8) The fee for one all-beverage license to a public airport shall be $800. This license is nontransferable.

(9) The license fees herein provided for are exclusive

of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages.

(10) In addition to other license fees, the department of revenue may require a licensee to pay a late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year, 66 2/3% of any license fee delinquent on August 1 of the renewal year, and 100% of any license fee delinquent on September 1 of the renewal year."

Section 33. Section 16-6-104, MCA, is amended to read:

"16-6-104. Unlawful alcoholic beverage -- seizure -- forfeiture. (1) Any investigator or peace officer who finds an alcoholic beverage which he has reasonable cause to believe is had or kept by any person in violation of the provisions of this code may forthwith seize and remove the same and the packages in which the alcoholic beverage is kept, and upon conviction of the person, the alcoholic beverage and all packages containing the same shall, in addition to any other penalty prescribed by this code, ipso facto be forfeited to the state of Montana.

(2) Any beer which has been shipped into Montana and has not been shipped to and distributed from a warehouse of a licensed wholesaler shall be seized by any peace officer or representative of the department and may be confiscated in the manner as provided for the confiscation of ~~intoxicating-liquor~~ alcoholic beverages."

Section 34. Section 16-6-301, MCA, is amended to read:

"16-6-301. Transfer, sale, and possession of alcoholic beverages -- when unlawful. (1) Except as provided by this code, no person shall, within the state, by himself, his clerk, servant, or agent, expose or keep for sale or, directly or indirectly or upon any pretense or upon any device, sell or offer to sell or, in consideration of the purchase or transfer of any property or for any other consideration or at the time of the transfer of any property, give to any other person any ~~liquor~~ alcoholic beverage.

(2) No person shall have or keep any ~~liquor-within-the state~~ alcoholic beverage which has not been purchased ~~from~~ within the state of Montana. Nothing in this code shall prohibit any person entering this state from any other state or from any foreign country from having in his possession not to exceed 3 wine gallons of alcoholic ~~liquor--or--beer~~ beverage which ~~liquor--or--beer~~ beverage shall have been purchased in another state or foreign country, but no person claiming to have so entered the state shall at any time have in his possession more than 3 wine gallons of ~~intoxicating liquor~~ alcoholic beverage which shall not have been purchased ~~from-a-state-liquor--store~~ within the state of Montana. This subsection shall not apply to the department or to the keeping or having of ~~liquor~~ alcoholic beverages by

brewers, distillers, and other persons duly licensed by the United States for the manufacture of such ~~liquor~~ alcoholic beverages or to the keeping or having of any proprietary or patent medicines or of any extracts, essences, tinctures, or preparations where such having and keeping is authorized by this code.

(3) Nothing contained in this section shall apply to the possession by a sheriff or his bailiff of ~~liquor~~ alcoholic beverages seized under execution or other judicial or extrajudicial process or to sales under executions or other judicial or extrajudicial process to the department or~~,-in-the-case-of-beer,-to-a-brewer,--beer--licensee,--club licensee,-or-canteen-licensee~~ a licensee.

(4) Except as provided in this code, no person shall, within the state, by himself, his clerk, servant, or agent:

(a) attempt to purchase any alcoholic beverage;

(b) directly or indirectly or upon any pretense or device, purchase any alcoholic beverage; or

(c) in consideration of the sale or transfer of any property or for any other consideration or at the time of the transfer of any property, take or accept from any other person any alcoholic beverage."

Section 35. Section 16-6-305, MCA, is amended to read:

"16-6-305. Age limit for sale of alcoholic beverages. (1) Except in the case of an alcoholic beverage given to a

person under 19 years of age by his parent or guardian for beverage or medicinal purposes or administered to him by his physician or dentist for medicinal purposes or sold to him by a vendor or druggist upon the prescription of a physician, no person shall sell, give, or otherwise supply an alcoholic beverage to any person under 19 years of age or permit any person under that age to consume an alcoholic beverage.

(2) Any person shall be guilty of a misdemeanor who:

(a) invites a person under the age of 19 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for such person;

(b) permits such person in a public place where an alcoholic beverage is sold to treat, give, or purchase ~~liquor~~ alcoholic beverages for him; or

(c) holds out such person to be 19 years of age or older to the owner of the establishment or his or her employee or employees.

(3) It is unlawful for any person to fraudulently misrepresent his or her age to any dispenser of alcoholic beverages or to falsely procure any identification card or to alter any of the statements contained in any identification card."

Section 36. Section 16-6-306, MCA, is amended to read:

"16-6-306. Bottle clubs prohibited. The operation of

~~beer-or-liquor-or~~ alcoholic beverage bottle clubs is hereby prohibited by any person, persons, partnership, firm, corporation, or association. A bottle club is defined as any person, persons, partnership, firm, corporation, or association maintaining premises not licensed for the sale of ~~beer-or-liquor~~ alcoholic beverages, for a fee or other consideration, including the sale of food, mixes, ice, or any other fluids for alcoholic ~~liquors~~ beverages, or otherwise furnishing premises for such purposes and from which they would derive revenue."

Section 37. Section 16-6-309, MCA, is amended to read:

"16-6-309. ~~Liquor~~ Alcoholic beverages administered to institution inmates. No ~~liquor~~ alcoholic beverage shall be administered by any person under 16-1-204 except to bona fide patients or inmates of the institution of which he is in charge, and every person in charge of an institution who administers ~~liquor~~ alcoholic beverages in evasion or violation of this code shall be guilty of an offense against this code."

Section 38. Section 16-6-312, MCA, is amended to read:

"16-6-312. Premises where ~~liquor~~ alcoholic beverages illegally sold public nuisance. Any room, house, building, boat, vehicle, structure, or place where alcoholic beverages are knowingly manufactured, sold, or bartered in violation of this code or 45-8-111 and all property knowingly kept and

used in maintaining the same is hereby declared to be a public nuisance, and any person who maintains such a nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than $100 or more than $500 and be imprisoned not less than 30 days or more than 6 months."

Section 39. Section 16-6-313, MCA, is amended to read:

"16-6-313. Injunction actions. An action to enjoin any nuisance defined in this code may be brought in the name of the state of Montana by the attorney general of the state or by any county attorney. Such action shall be brought and tried as an action in equity and may be brought in any court having jurisdiction to hear and determine equity cases. If it is made to appear, by affidavits or otherwise, to the satisfaction of the court or judge in vacation that such nuisance exists, a temporary writ of injunction shall forthwith issue restraining the defendant from conducting or permitting the continuance of such nuisance until the conclusion of the trial. If a temporary injunction is prayed for, the court may issue an order restraining the defendant and all other persons from removing or in any way interfering with the fixtures or other things used in connection with the violation of this code constituting such nuisance. No bond shall be required in instituting such proceedings. It shall not be necessary for the court to find

the property involved was being unlawfully used at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that no ~~liquor--or--beer~~ alcoholic beverages shall be manufactured, sold, or bartered in such room, house, building, boat, vehicle, structure, or place or any part thereof. Upon judgment of the court ordering such nuisance to be abated, the court may order that the room, house, building, structure, boat, vehicle, or place shall not be occupied or used for 1 year thereafter. The court may, in its discretion, permit it to be occupied or used if the owner, lessee, tenant, or occupant thereof shall give bond with sufficient surety, to be approved by the court making the order, in the penal and liquidated sum of not less than $500 or more than $1,000, payable to the state of Montana and conditioned that ~~liquor-or-beer~~ alcoholic beverages will not thereafter be manufactured, sold, or bartered therein or thereon and that he will pay all fines, costs, and damages that may be assessed for any violations of this code upon said property."

NEW SECTION. Section 40. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

-End-

Form CS-32
Rev. 1985

STATUS SHEET

50TH LEGISLATIVE SESSION

BUSINESS AND LABOR COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
98	1/12/87	1/12/87	1/15/87			1/15/87					
119	1/12/87	1/15/87	tabled 2/11/87								
122	1/12/87	1/16/87	1/16/87	1/16/87							
129	1/12/87	1/16/87	1/29/87	1/29/87							
130	1/12/87	1/16/87	1/29/87			1/29/87					
133	1/12/87	1/19/87	1/27/87			1/27/87					
142	1/13/87	1/20/87	1/27/87			1/27/87					
143	1/13/87	1/20/87	2/2/87			2/2/87					
147	1/14/87	1/22/87	tabled 1/22/87								
165	1/14/87	1/20/87	1/23/87			1/23/87					
166	1/14/87	1/21/87	1/21/87	1/21/87							
170	1/16/87	1/21/87	1/21/87	1/21/87							
177	1/14/87	1/21/87	1/21/87	1/21/87							
179	1/14/87	1/21/87	1/28/87			1/28/87					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
50TH LEGISLATIVE SESSION

January 19, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on January 19, 1987 at 8:00 a.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 80 - Newspaper Carrier or Correspondent Need Not Have Workers Compensation sponsored by Rep. Jan Brown. Rep. Brown stated that House Bill 80 exempts newspaper carrier and part-time newspaper correspondents from workers' compensation coverage.

PROPONENTS

Les Loble II, representing Lee Enterprises, Inc. Mr. Loble stated that he is submitting an amendment to the bill that makes the implied assumption expressed that the person will not be covered by workers compensation insurance, and if the person is a minor that a parent or guardian must make the written acknowledgement. He said carriers are not covered now, and this will forestall the possibility of increased costs being imposed on the papers. He also pointed out that he suspects that when the cost of the coverage for the full time adult employees are imposed for the services of part time and independent carriers, which now are mostly the young people, the papers will conclude they might as well hire adults, and the 12-15 year olds will lose the money making opportunity. He stated that Montana's daily newspapers hire about 125 to 150 and the weekly newspapers 400 to 700 correspondents; many of which are homemakers selling their columns and photographic services to several sources, often in more than one state. He commented that there is no set standard of payment for these people throughout the industry and would add another administrative problem to the entire process unless they have an exempt status. Exhibit No. 1.

He stated that the following people that were going to testify as proponents besides himself were: George Moore, Montana Press Association; Richard Wesnick, Billings Gazette; Bruce Smith, publisher of the Bozeman Chronicle; and Rick Foote, editor of the Montana Standard. He also stated that others that wanted to be listed as proponents and would be available to answer questions were: Chuck Vincent, circulation manager of the Billings Gazette; Sandra Grimes,

Rep. Thomas stated that the definition of part time and free lance should be clarified.

CLOSING

Rep. Brown stated that there were some gray areas in the bill and hoped the committee would allow them to work on the definitions and address the problems. She stated that there were two important factors involved; that young people were able to work as paper carriers, and if the newspapers feel they can't afford to hire them, they would lose. She said that profits the newspapers made was mentioned, but if the newspaper's costs increase, then the advertising costs of the small businesses would increase and they couldn't afford to advertise which would hurt them.

HOUSE BILL NO. 133 - Make Consistent Certain Terms in Montana Alcoholic Beverage Code sponsored by Rep. Melvin Williams. Rep. Williams stated that this bill clarifies the terms throughout the Montana Alcoholic Beverage Codes and makes them consistent. He said that passage of the bill would not change the Department of Revenue interpretation of the law as it exists at the present time.

PROPONENTS

Gary Blewett, Administrator, Liquor Division, Department of Revenue. Mr. Blewett stated that a lot of sections in the Alcoholic Beverage Code would be affected by the changes, but a limited number of terms would be changed. He said the bill attempts to clean up the terminology in about 98 places in the Code so that the Department does not have to repeatedly litigate the intention of the law. Exhibit No. 1.

Bob Durkee, lobbyist for the Montana Tavern Association. Mr. Durkee stated that they support the bill and have a minor amendment. He suggested inserting the word "annually" on lines 23 and 24, page 40 of the bill which reads, "the fee for a one-time all beverage license to a public airport shall be $800...". He said the city loses on a one-time fee because they are allowed to charge by the base of the state fee, therefore, every year they lose revenue.

OPPONENTS

Roger Tippy, representing the Beer and Wine Wholesalers. Mr. Tippy requested a coordination clause amendment at the end of the bill. He said that the bill makes a number of amendments to the Alcoholic Beverage Code that perpetuates the dual wine distribution system in the different sections. He commented that the dual wine system is a parallel system of bringing the table wine to the state which is run into

the state warehouse and out to the state liquor stores and agency stores, and the other, through the wholesalers and out to the beer and wine licensees that generally buy from the wholesalers. Mr. Tippy stated that they would oppose the bill unless the coordination clause was included in the end.

QUESTIONS

Rep. Simon asked if the state is currently offering the discount of 5% on case purchases off the posted price and not off the retail price, and if that had been the practice of the Department for some time. Mr. Blewett responded that was correct.

Rep. Simon asked if that difference, according to his calculations, cost the state of Montana about $140,000 in revenue last year. Mr. Blewett responded that Rep. Simon's evaluation appeared to be correct.

Rep. Simon asked if there appears to be this anomaly in the definition, why wasn't there an effort made to either change the definition to address that or add the term "posted price" in section 16-2-201 to conform with current practice to correct the situation. Mr. Blewett responded that this was under the category of making certain terms consistent. He said the list of sections that needed to be conformed was evolved by the Legislative Council, and if any other terms were to be addressed, another issue would have to be raised and possibly be in a separate bill.

CLOSING

Rep. Williams made no further comments.

EXECUTIVE ACTION - none.

ADJOURNMENT

The meeting adjourned at 11:30 a.m.

Les Kitselman

REP. LES KITSELMAN, Chairman

DAILY ROLL CALL

BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date JANUARY 19, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

CS-30

VISITORS' REGISTER

BUSINESS AND LABOR COMMITTEE

BILL NO. HOUSE BILL NO. 133 DATE JANUARY 19, 1987

SPONSOR REP. J. MELVIN WILLIAMS

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Gary Blewett	Helena - DoR	✓	
Tom Muhlhollard	" "	✓	
Bob Durkee	MTA	✓	
Roger Tippy	MBMA - Helena		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
50TH LEGISLATIVE SESSION

January 27, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on January 27, 1987 at 8:00 a.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 242 - Expands Utility Conservation Expenditures Eligible for Rate Base Inclusion, sponsored by Rep. Hal Harper, House District No. 44, Helena. Rep. Harper stated that this bill expands the ability of utilities to purchase conservation and to include that conservation in the rate base. He stated the bill provides a strict requirement that in order for these purchases to be eligible to be included in the rate base, they have to be 50% or less. He said that means it could only cost up to one-half as much as the power that is saved would have cost if they had purchased it from conventional energy generating sources such as full-fired generating plants. The 50% provision is a tight provision, he stated, and by extra installation in the attic an immediate and cost effective savings would be realized, but if a person wanted to upgrade the structure in their house such as new windows or siding it would be over 50% of the cost. He said the amendment was needed to encourage a long term generation of energy because any kilowatt that is not used because of conservation is exactly the same as one that has been generated anew and its much cheaper.

PROPONENTS

Bill Thomas, Director of Energy Conservation, Montana Power Company. Mr. Thomas stated that utilities include energy conservation as part of the mix of resources planned for acquisition to meet future loads. He said least-cost planning implies that any resources which are available at or below avoided cost and meets the other planning criteria should be acquired first. He commented energy conservation resources meet those planning criteria, and they also add flexibility to the planning process. He added that conservation programs have short lead times and energy savings could be acquired quickly and in small amounts to be more precisely matched to incremental load growth, and if a prudent least cost policy is followed by utilities, then the

He stated that some language was put in at the request of the Legislative Auditor, and discussed with Mr. Hickey, Mr. Ennis and Ms. Dowling regarding that certain audit findings would be confidential. He added that this relates to security; if the auditor finds out the somebody has devised a scheme to beat the lottery, he mentions that in his report, but he does not give the details of how to the scheme worked, so that no one else would learn how it worked.

EXECUTIVE ACTION - January 27, 1987 - 9:10 a.m.

ACTION ON HOUSE BILL NO. 242

Rep. Driscoll moved that House Bill No. 242 DO PASS.

Rep. Swysgood moved the amendment. The motion carried unanimously.

Rep. Smith moved DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 231

Rep. Jones moved that House Bill No. 231 DO PASS. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 133

Rep. Pavlovich moved that House Bill No. 133 DO PASS.

Rep. Pavlovich moved the amendment. The motion carried unanimously.

Rep. Pavlovich moved that House Bill No. 133 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 374

Rep. Pavlovich moved that House Bill No. 374 DO PASS.

Rep. Pavlovich moved the amendments and explained that there had been discussion on whether the director of the lottery "may" or "shall" appoint a bi-partisan legislative liaison committee; this committee is just an advisory committee and does not have their expenses paid, but if it is made into a permanent committee or standing committee, they would have to be paid per diem.

Rep. Brandewie moved an amendment to delete "the director may" and insert "the Speaker of the House and the President of the Senate shall". He stated that there shouldn't be a

DAILY ROLL CALL

BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date January 27, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

CS-30

STANDING COMMITTEE REPORT

January 27 19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 133

☒ do pass ☐ do not pass
☐ be concurred in ☐ be not concurred in
☒ as amended ☐ statement of intent attached

REP. LES KITSELMAN Chairman

MAKE CONSISTENT CERTAIN TERMS IN MONTANA ALCOHOLIC BEVERAGE CODE

AMENDMENTS AS FOLLOWS:

1) Page 47, line 25
Following: line 24
Insert: "Section 41. Coordination. If House Bill No. 313, (LC 481), (LC 1194) or any other legislation enacted by the 50th legislature deletes or modifies the authority of the department of revenue to import and sell table wine, any amendment in this act that adds the phrase "and table wine" after the word "liquor" is void to the extent such amendments conflict with the substantive policy regarding table wine contained in such other act. The code commissioner, in consultation with the agency administering the liquor laws, shall delete such void amendments enacted in this act from the next publication of the Montana Code Annotated."

FIRST reading copy (WHITE color)

CHAIRMAN--SEN. ALLEN C. KOLSTAD
NORMAL SCHEDULE==> SITE: ROOM 410

DAYS: MON THRU FRI TIME: 10:00 A.M.

SECRETARY-CAROLYN LINDEN

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM---	DATE OUT-
HB0122 PECK, RAY	1/22	1/27	1/27/87 CHANGING STATE BANKING BOARD MEETING DATES AND BANK EXAMINATION FREQUENCY	CONCUR		1/27/87
HB0133 WILLIAMS, MEL	2/02	2/20	2/20/87 MAKE CONSISTENT CERTAIN TERMS IN MONTANA ALCOHOLIC BEVERAGE CODE	CONCUR		2/20/87
HB0165 BROWN, JAN	3/02	3/12	3/12/87 PHARMACISTS NOT LIABLE FOR PEER REVIEW	CONCUR		3/12/87
HB0177 JONES, TOM	1/26	2/05	2/5/87 SMALL TRACT FINANCING ACT TRUSTEE QUALIFICATIONS REVISION	CONCUR		2/5/87
HB0179 JONES, TOM	2/02	3/16	3/16/87; 3/17/87; 3/20/87 3/26/87 PROHIBITING ACQUISITION OF INSURED BANKS BY CERTAIN COMPANIES	CONCUR AS AMENDED		3/26/87
HB0180 FRITZ, HARRY	2/13	3/13	3/13/87 ALLOW AGENCY TO BUY SUPPLIES USING ADVERTISED/CATALOG PRICES IN SOME CASES	CONCUR		3/13/87
HB0189 PAVLOVICH, BOB	2/23	3/05	3/5/87 TRANSFER ADMINISTRATION VIDEO POKER MACHINE LAW FROM REVENUE TO COMMERCE	CONCUR		3/5/87
HB0194 MILES, JOAN	1/26	2/06	2/6/87 ABOLISH DHES APPROVAL OF CERTAIN ALCOHOLIC BEVERAGES SALES	CONCUR		2/6/87
HB0203 SPAETH, GARY	1/26	2/11	2/11/87 STATE AUDITOR DISCRETION TO WAIVE INDEMNITY BOND FOR DUPLICATE WARRANT	CONCUR		2/11/87
HB0206 MCCORMICK, MAC	2/10	3/04	3/4/87 ALLOW VIDEO DRAW POKER MACHINE TO ACCEPT CASH IN THE FORM OF BILLS	CONCUR		3/4/87
HB0218 BRANDEWIE, RAY	1/30	2/05	2/5/87 SHOWING PROOF OF OWNERSHIP OF FOREST PRODUCTS TO LAW ENFORCEMENT OFFICER	CONCUR		2/5/87

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 20, 1987

The twenty-fifth meeting of the Business and Industry Committee was called to order by Chairman Allen C. Kolstad at 9:34 a.m. on Friday, February 20, 1987 in Room 410 of the Capitol.

ROLL CALL: All committee members were present with Sen. Hager excused and Sen. McLane, also excused.

FURTHER DISCUSSION OF SENATE BILL NO. 205: Chairman Kolstad announced that SB 205 would be taken first on the agenda as Sen. Halligan was present, as was Mr. Likewise. He also noted that additional information had been received from the Department of Health and Human Services in Denver. He asked Mary McCue, Committee researcher, to explain that information. (EXH. 1)

Ms. McCue explained that there is a federal regulation in the federal law which she had briefly reviewed and said that it appears there has to be some kind of a prepayment review of every single claim which is not in the bill now. However, with Sen. Halligan's amendment that would probably be taken care of if they have to hold on to the voucher until the department has an opportunity to review it. The review would be there but she said she saw a problem if the department rejects the claim but the pharmacist, in a few instances, would go ahead and negotiate that voucher.

Sen. Halligan said there could be a criminal penalty added to the bill if that should happen - negotiation of a voucher following rejection by the department - it would be theft of government services.

Sen. Williams asked if this review would require another complete handling of the claims. Ms. McCue said she assumed they would only have to review them for eligibility one time and this wouldn't be creating another review. The same information would be reviewed as what they are doing now.

Sen. Weeding asked if this voucher would be out in circulation forever - would they get paid by SRS and still have this negotiable voucher. Sen. Halligan said they would not be paid by SRS. The pharmacist would wait the 30 days for word from the department and then negotiate it at the bank and it would go into their bank account. A copy would be sent to SRS for review, wait the 30 days, at the end of 30 days it could be negotiated at the bank if it was not rejected by SRS.

Sen. Williams asked Mr. Likewise if he had any figures as to the percentage of accounts delinquent over 30 and 60 days. Mr. Likewise replied that most stores don't have charge accounts and it is mostly cash. The ones that did have charge accounts had a

CONSIDERATION OF HOUSE BILL NO. 133: Sen. Chet Blaylock, in the absence of the sponsor, Rep. Mel Williams, stated that the bill would amend numerous sections of the alcoholic beverage code to make certain terms consistent throughout the code. He said it changes the term liquor to alcoholic beverages, defines table wines and the people who can sell it - this is done all the way through the bill. It also included a coordination instruction if HB 313 should pass. The bill was requested by the department of revenue.

PROPONENTS: Tom Mulholland, Department of Revenue, said the bill was a clean up measure and asked for a favorable recommendation of the bill.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 133: Chairman Kolstad called for questions from the committee members. There were no questions.

DISPOSITION OF HOUSE BILL NO. 133: Sen. Thayer MOVED HB 133 BE CONCURRED IN, seconded by Sen. Boylan. The MOTION CARRIED UNANIMOUSLY.

CONSIDERATION OF HOUSE BILL NO. 334: Rep. Nancy Keenan, House District 66, Anaconda, chief sponsor, said the bill revises the licensing requirements for social workers and professional counselors. It requires that a social worker do postgraduate work and recognizes national exams for professional counselors. It also provides for annual licensing of social workers and was requested by the Board of Social Workers. She said it was basically a housecleaning measure. She also asked that Judy Carlson, representing the National Association of Social Workers, be entered into the record as being present.

Patrick J. Kelly, Chairman of the Board of Social Work Examiners and Professional Counselors, submitted his written testimony (EXHIBIT 7) and said that the Board had requested the bill. He pointed out because of the self-sufficiency of this board they must obtain annual licensing. He urged support of HB 334.

Joan Rebisch, representing the Montana Mental Health Counselors Association, said they had met with the Board and were aware of the changes in the legislation and, as a group, were in support of HB 334.

Joy McGrath, representing the Mental Health Association of Montana, appeared in support of HB 334, as written.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 334: Chairman Kolstad called for questions from the members. Sen. Thayer asked about Ms. McGrath's opposition to SB 210. She replied she wasn't sure where the board would stand on that but felt their concerns could probably

ROLL CALL

B & I COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 2/20/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER			✓
HARRY H. McLANE			✓
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER			
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

February 20 19 67

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 133

Third reading copy (blue color)

WILLIAMS (BLAYLOCK)

MAKE CONSISTENT CERTAIN TERMS IN MONTANA ALCOHOLIC BEVERAGE CODE

Respectfully report as follows: That HOUSE BILL No. 133

BE CONCURRED IN

XXXXXXXX

XXXXXXXXXXXX

SENATOR ALLEN C. KOLSTAD, Chairman.

HOUSE BILL NO. 133

INTRODUCED BY M. WILLIAMS, BLAYLOCK, HARRINGTON,

MAZUREK, B. BROWN, HARP

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE CONSISTENT CERTAIN TERMS IN THE MONTANA ALCOHOLIC BEVERAGE CODE; AND AMENDING SECTIONS 16-1-101, 16-1-104 THROUGH 16-1-106, 16-1-201, 16-1-204, 16-1-303, 16-1-405, 16-2-101, 16-2-103, 16-2-104, 16-2-106 THROUGH 16-2-108, 16-2-203, 16-2-302, 16-3-101, 16-3-105, 16-3-106, 16-3-310, 16-3-401, 16-4-106, 16-4-108, 16-4-201, 16-4-202, 16-4-208, 16-4-302, 16-4-401, 16-4-404, 16-4-405, 16-4-411, 16-4-501, 16-6-104, 16-6-301, 16-6-305, 16-6-306, 16-6-309, 16-6-312, AND 16-6-313, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-1-101, MCA, is amended to read:

"16-1-101. Citation -- declaration of policy -- subject matters of regulation. (1) Chapters 1 through 6 of this title may be cited as the "Montana Alcoholic Beverage Code".

(2) It is hereby declared to be the policy of the state of Montana to effectuate and ensure the entire control of the manufacture, sale, and distribution of ~~liquor~~ alcoholic beverages within the state of Montana, as that

Montana Legislative Council

THERE ARE NO CHANGES ON HB 133 AND DUE TO LENGTH WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING (YELLOW) OR THIRD READING (BLUE) FOR COMPLETE TEXT.

REFERENCE BILL
HB·133

HOUSE BILL NO. 133

INTRODUCED BY M. WILLIAMS, BLAYLOCK, HARRINGTON, MAZUREK, B. BROWN, HARP

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE CONSISTENT CERTAIN TERMS IN THE MONTANA ALCOHOLIC BEVERAGE CODE; AND AMENDING SECTIONS 16-1-101, 16-1-104 THROUGH 16-1-106, 16-1-201, 16-1-204, 16-1-303, 16-1-405, 16-2-101, 16-2-103, 16-2-104, 16-2-106 THROUGH 16-2-108, 16-2-203, 16-2-302, 16-3-101, 16-3-105, 16-3-106, 16-3-310, 16-3-401, 16-4-106, 16-4-108, 16-4-201, 16-4-202, 16-4-208, 16-4-302, 16-4-401, 16-4-404, 16-4-405, 16-4-411, 16-4-501, 16-6-104, 16-6-301, 16-6-305, 16-6-306, 16-6-309, 16-6-312, AND 16-6-313, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-1-101, MCA, is amended to read:

"16-1-101. Citation -- declaration of policy -- subject matters of regulation. (1) Chapters 1 through 6 of this title may be cited as the "Montana Alcoholic Beverage Code".

(2) It is hereby declared to be the policy of the state of Montana to effectuate and ensure the entire control of the manufacture, sale, and distribution of ~~liquor~~ alcoholic beverages within the state of Montana, as that term is defined in this code, subject to the authority of the state of Montana through the Montana department of revenue.

(3) This code is an exercise of the police power of the state, in and for the protection of the welfare, health, peace, morals, and safety of the people of the state, and its provisions shall be construed for the accomplishment of such purposes."

Section 2. Section 16-1-104, MCA, is amended to read:

"16-1-104. Intent and construction of code. The purpose and intent of this code are to prohibit transactions in ~~liquor~~ alcoholic beverages which take place wholly within the state of Montana except under state control as specifically provided by this code, and every section and provision of this code shall be construed accordingly. The provisions of this code dealing with the importation, sale, and disposition of ~~liquor~~ alcoholic beverages within the state, through the instrumentality of a department and otherwise, provide the means by which such state control shall be made effective, and nothing in this code shall be construed as forbidding, affecting, or regulating any transaction which is not subject to the legislative authority of the state."

Section 3. Section 16-1-105, MCA, is amended to read:

"16-1-105. Divisions of code. This code is divided

THIRD READING

into six chapters. Chapter 1 relates to the authority of the department of revenue to administer this code and the powers and functions of the department. Chapter 2 relates to the establishment of state stores and the keeping and selling of liquors. Chapter 3 relates to the control of liquor, wine, and beer. Chapter 4 relates to license administration. Chapter 5 ~~relates~~ (now repealed) related to identification cards. Chapter 6 relates to enforcement."

Section 4. Section 16-1-106, MCA, is amended to read:

"16-1-106. Definitions. As used in this code, the following definitions apply:

(1) "Agency agreement" means an agreement between the department and a person appointed to sell liquor and table wine as a commission merchant rather than as an employee.

(2) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(3) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than .5% of alcohol by volume.

(4) "Beer" means a malt beverage containing not more than 7% of alcohol by weight.

(5) "Beer importer" means a person other than a brewer who imports malt beverages.

(6) "Brewer" means a person who produces malt beverages.

(7) "Department" means the department of revenue.

(8) "Immediate family" means a spouse, dependent children, or dependent parents.

(9) "Import" means to transfer beer or table wine from outside the state of Montana into the state of Montana.

(10) "Industrial use" means a use described as industrial use by the federal Alcohol Administration Act and the federal rules and regulations of 27 CFR.

(11) "Liquor" means an alcoholic beverage except beer and table wine.

(12) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom and with or without other wholesome products suitable for human food consumption.

(13) "Package" means a container or receptacle used for holding an alcoholic beverage.

(14) "Posted price" means the retail price of liquor and table wine as fixed and determined by the department and in addition thereto an excise and license tax as provided in this code.

(15) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that contains 50% of alcohol by volume.

(16) "Public place" means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort.

(17) "Rules" means rules published by the department pursuant to this code.

(18) "State liquor facility" means a facility owned or under control of the department for the purpose of receiving, storing, transporting, or selling alcoholic beverages.

(19) "State liquor store" means a retail store operated by the department in accordance with this code for the purpose of selling liquor and table wine.

(20) "Storage depot" means a building or structure owned or operated by a brewer at any point in the state of Montana off and away from the premises of a brewery, and which structure is equipped with refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute beer as permitted by this code.

(21) "Subwarehouse" means a building or structure owned or operated by a licensed beer wholesaler or table wine distributor, located at a site in Montana other than the site of such beer wholesaler's or table wine distributor's

warehouse or principal place of business, and used for the receiving, storage, and distribution of beer or table wine as permitted by this code.

(22) "Table wine" means wine as defined below which contains not more than 16% alcohol by volume.

(23) "Warehouse" means a building or structure located in Montana owned or operated by a licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer or table wine as permitted by this code.

(24) "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined as above but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine."

Section 5. Section 16-1-201, MCA, is amended to read:

"16-1-201. Acts not covered by code. (1) Nothing in this code shall prevent any brewer, distiller, or other

42

person, duly licensed under the provisions of any statute of the United States of America for the manufacture of ~~liquor~~ alcoholic beverages, from having or keeping ~~liquor~~ alcoholic beverages in a place and in the manner authorized by or under any such statute.

(2) It is hereby declared to be the policy of the state of Montana that the manufacture of ~~liquor~~ alcoholic beverages, including the distillation, rectification, bottling, and processing as these terms are defined under the provisions of the laws of the United States, shall be authorized and permitted by any brewer, distiller, rectifier, or other person duly licensed under any provision of any statute of the United States of America in a place and in the manner authorized by or under any statute of the United States, provided the department may make such rules as the department deems necessary with respect thereto not inconsistent with this code or with the statutes of the United States of America or regulations issued under the provisions of the federal Alcohol Administration Act, Title 27, United States Code, sections 201 through 212, inclusive, or regulations issued under the provisions of the Internal Revenue Code, Title 26, United States Code, sections 5001 through 5693, inclusive.

(3) Nothing in this code shall prevent:

(a) the sale of liquor or table wine by any person to

the department;

(b) the purchase, importation, and sale of liquor and table wine by the department for the purposes of and in accordance with this code."

Section 6. Section 16-1-204, MCA, is amended to read:

"16-1-204. Licensed hospital or health care facility. Any person in charge of an institution regularly conducted as a licensed hospital or health care facility may administer ~~liquor~~ alcoholic beverages purchased by him to any patient or inmate of the institution and may charge for the ~~liquor~~ alcoholic beverages so administered."

Section 7. Section 16-1-303, MCA, is amended to read:

"16-1-303. Department rules. (1) The department may make such rules not inconsistent with this code as to the department seem necessary for carrying out the provisions of this code and for the efficient administration thereof.

(2) Without thereby limiting the generality of the provisions contained in subsection (1) hereof, it is declared that the power of the department to make rules in the manner set out in that subsection shall extend to and include the following:

(a) regulating the equipment and management of state stores and warehouses in which liquor or table wine is kept or sold and prescribing the books and records to be kept therein;

(b) prescribing the duties of the employees of the liquor division and regulating their conduct while in the discharge of their duties;

(c) governing the purchase of liquor and table wine and the furnishing of liquor and table wine to state stores established under this code;

(d) determining the classes, varieties, and brands of liquor and table wine to be kept for sale at any state store;

(e) prescribing, subject to this code, the hours during which state liquor stores shall be kept open for the sale of alcoholic beverages;

(f) providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each class, variety, or brand of liquor and table wine kept for sale under this code;

(g) prescribing forms to be used for the purpose of this code or of the rules made thereunder and the terms and conditions in permits and licenses issued and granted under this code;

(h) prescribing the form of records of purchase of liquor and table wine and the reports to be made thereon to the division and providing for inspection of the records so kept;

(i) prescribing the manner of giving and serving

notices required by this code or the rules thereunder;

(j) prescribing the fees payable in respect of permits and licenses issued under this code for which no fees are prescribed in this code and prescribing the fees for anything done or permitted to be done under the rules made thereunder;

(k) prescribing, subject to the provisions of this code, the conditions and qualifications necessary for the obtaining of ~~a--liquor--or-beer-license~~ alcoholic beverage licenses and the books and records to be kept and the returns to be made by the licensees and providing for the inspection of such licensed premises;

(l) specifying and describing the place and the manner in which ~~liquor-or-beer~~ alcoholic beverages may be lawfully kept or stored;

(m) specifying and regulating the time and periods when and the manner, methods, and means by which vendors and brewers shall deliver ~~liquor~~ alcoholic beverages under this code and the time and periods when and the manner, methods, and means by which ~~liquor~~ alcoholic beverages, under this code, may be lawfully conveyed or carried;

(n) governing the conduct, management, and equipment of any premises licensed to sell ~~liquor--or--beer~~ alcoholic beverages under this code;

(o) providing for the imposition and collection of

taxes and making rules respecting returns, accounting, and payment of the taxes to the department.

(3) Whenever it is provided in this code that any act, matter, or thing may be done if permitted or authorized by the rules or may be done in accordance with the rules or as provided by the rules, the department, subject to the restrictions set out in subsection (1) hereof, shall have the power to make rules respecting such act, matter, or thing."

Section 8. Section 16-1-405, MCA, is amended to read:

"16-1-405. Use of license tax proceeds. The license tax moneys when so apportioned shall be deposited to the credit of the general funds of said incorporated cities, towns, and counties and shall be expended by said incorporated cities, towns, and counties for law enforcement and the regulation and control of the sale of ~~liquor~~ alcoholic beverages and the use thereof."

Section 9. Section 16-2-101, MCA, is amended to read:

"16-2-101. Establishment and closure of state liquor stores -- kinds and prices of liquor and table wine. (1) (a) The department shall establish and maintain one or more stores, to be known as "state liquor stores", as the department finds feasible for the sale of liquor and table wine in accordance with the provisions of this code and the rules made thereunder.

(b) The department shall enter into an agency agreement or employ the necessary help to operate said stores and shall designate the duties to be performed by the agent or employees.

(2) The department may from time to time fix the prices at which the various classes, varieties, and brands of liquor and table wine may be sold, and prices shall be the same at all state stores."

Section 10. Section 16-2-103, MCA, is amended to read:

"16-2-103. Duplicate invoices of sales required. (1) The state liquor store shall, upon each sale of liquor or table wine to any licensee, issue a duplicate invoice of the liquor or table wine purchased, as provided by the department, a copy of which shall be delivered to the licensee and one copy retained at such store.

(2) The invoice shall show the date of purchase, name of employee making the sale, the quantity of each kind of liquor or table wine purchased, the price paid therefor, the name of the licensee, and the number of the license, with such other information as may be required by the department.

(3) The licensee shall keep and retain his duplicate invoice of all purchases made by him from the state liquor store, which shall at all times be subject to inspection by the duly authorized officers, agents, and employees of the department."

Section 11. Section 16-2-104, MCA, is amended to read:

"16-2-104. Hours. (1) State liquor stores shall be and remain open during such period of the day as the department shall deem advisable. The stores shall be closed for the transaction of business on legal holidays and between the close of normal business Saturday p.m. up to the opening of normal business Tuesday a.m. as set by department rule.

(2) No sale or delivery of liquor or table wine shall be made on or from the premises of any state liquor store nor shall any store be open for the sale of liquor or table wine:

(a) on any holiday recognized by state law;

(b) during such other period and on such other days as the department may direct."

Section 12. Section 16-2-106, MCA, is amended to read:

"16-2-106. Purchase price in advance. A store manager may sell to any person such liquor and table wine as that person is entitled to purchase in conformity with the provisions of this code and the rules made thereunder, provided that no delivery shall take place until the purchaser has paid the purchase price."

Section 13. Section 16-2-107, MCA, is amended to read:

"16-2-107. No open ~~liquor~~ alcoholic beverage container or ~~liquor~~ alcoholic beverage consumption on premises of state store. No officer, clerk, or agent of the department

employed in a state store shall allow any ~~liquor~~ alcoholic beverage container to be opened on the premises of a state store or allow any ~~liquor~~ alcoholic beverage to be consumed on the premises of a state store, nor shall any person open ~~a liquor~~ an alcoholic beverage container or consume any ~~liquor~~ alcoholic beverage on such premises."

Section 14. Section 16-2-108, MCA, is amended to read:

"16-2-108. Disposition of money received. All moneys received from the sale of liquor and table wine at the state liquor stores shall be deposited in the enterprise fund in the state treasury to the credit of the department. The department is hereby authorized to purchase liquor and table wine from moneys deposited to its account in the enterprise fund. The department shall pay from its account in the enterprise fund its administrative expenses, subject to the limits imposed by legislative appropriation. No obligation created or incurred by the department may ever be or become a debt or claim against the state of Montana but shall be payable by the department solely from funds derived from the operation of state liquor stores. The department shall pay into the state treasury to the credit of the general fund the receipts from all taxes and licenses collected by it and also the net proceeds from the operation of state liquor stores."

Section 15. Section 16-2-203, MCA, is amended to read:

"16-2-203. Department sales to licensees. The department may sell through its stores to licensees licensed under this code all kinds of liquor~~,--wine--containing--more than--14%-alcohol-by-volume,-and-cordials-kept-in-stock~~ and table wine at the posted price thereof in the store in which the liquor ~~is~~ and table wine are sold. All sales shall be upon a cash basis."

Section 16. Section 16-2-302, MCA, is amended to read:

"16-2-302. State distribution. The department may import and distribute one or more named table wines to one or more designated state liquor stores, in the same manner as if the ~~table~~ wine contained more than ~~14%~~ 16% alcohol by volume."

Section 17. Section 16-3-101, MCA, is amended to read:

"16-3-101. ~~liquor~~ Alcoholic beverages dispensed only in accordance with code. No brewer, beer importer, distiller, or manufacturer of ~~liquor~~ alcoholic beverages shall, within the state, by himself, his clerk, servant, or agent, give to any person any ~~liquor~~ alcoholic beverage except as may be permitted by and in accordance with the rules made under this code."

Section 18. Section 16-3-105, MCA, is amended to read:

"16-3-105. Restrictions on ~~liquor~~ alcoholic beverages in hotels. Except in the case of ~~liquor--or--beer~~ alcoholic beverages kept or consumed in premises for which a license

has been granted under the law and which form a part of a hotel, no person shall:

(1) keep or consume ~~liquor~~ alcoholic beverages in any part of a hotel other than a private guest room;

(2) keep or have any ~~liquor~~ alcoholic beverage in any room in a hotel unless he is a bona fide guest of the hotel and is duly registered in the office of the hotel as an occupant of that room."

Section 19. Section 16-3-106, MCA, is amended to read:

"16-3-106. Conveyance of liquors, table wines, and beer -- opening ~~liquor~~ alcoholic beverages during transit forbidden. (1) It shall be lawful to carry or convey liquor or table wine to any state store and to and from any warehouse or depot established by the department for the purposes of this code, and when permitted to do so by this code and the rules made thereunder and in accordance therewith, it shall be lawful for any common carrier or other person to carry or convey liquor or table wine sold by a vendor from a state store or beer, when lawfully sold by a brewer, from the premises wherein such beer was manufactured or from premises where the beer may be lawfully kept and sold to any place to which the same may be lawfully delivered under this code and the rules made thereunder.

(2) No common carrier or any other person shall open, break, or allow to be opened or broken any package or vessel

containing ~~liquor~~ an alcoholic beverage or drink or use or allow to be drunk or used any ~~liquor~~ alcoholic beverage therefrom while being carried or conveyed."

Section 20. Section 16-3-310, MCA, is amended to read:

"16-3-310. Lapse of license for nonuse. Any retail license issued pursuant to this code (including any retail license to sell beer and table wine for off-premises consumption) not actually used in a going establishment for 90 days shall automatically lapse. Upon determining the fact of nonuse for such period, the department shall cancel such license of record and no portion of the fee paid therefor shall be refundable. The provisions of this section shall not apply to the license of any licensee whose premises are operated on a seasonal basis in connection with a bona fide dude ranch, resort, park hotel, tourist facility, or like business, provided such licensee has secured written authority from the department to close and has licensed premises for a specified period of greater than 90 days' duration. Should the department determine that such lapse was reasonably beyond the control of the licensee, then the lapse provision shall not apply."

Section 21. Section 16-3-401, MCA, is amended to read:

"16-3-401. Public policy. The public policy of the state of Montana is to maintain a system for the importation and sale of table wine by the state through state liquor

facilities and provide for, regulate, and control the acquisition, importation, and distribution of table wine ~~containing--not--more-than-14%-alcohol-by-volume~~ by licensed table wine distributors and the state."

Section 22. Section 16-4-106, MCA, is amended to read:

"16-4-106. Beer and table wine license transfers. A transfer of any brewer's, beer wholesaler's, table wine distributor's, beer retailer's, or table wine retailer's license may be made on application to the department with the consent of the department, provided that the transferee qualifies under this code."

Section 23. Section 16-4-108, MCA, is amended to read:

"16-4-108. ~~Wine~~ Table wine distributor's license. (1) Any person desiring to sell and distribute table wine at wholesale to retailers under the provisions of this code shall apply to the department of revenue for a license to do so and shall tender with his application the annual license fee of $400 and the department may issue licenses to qualified applicants in accordance with the provisions of this code.

(2) All table wine distributors' licenses issued in any year expire on June 30 at midnight of such year.

(3) No license fee may be imposed upon table wine distributors by a municipality or any other political subdivision of the state.

53

(4) The license shall be at all times prominently displayed in the place of business of such table wine distributor.

(5) An applicant shall have a fixed place of business, sufficient capital, the facilities, storehouse, receiving house or warehouse for the receiving of, storage, handling, and moving of table wine in large and jobbing quantities for distribution and sale in original packages to other licensed table wine distributors or licensed retailers. Each table wine distributor is entitled to only one wholesale table wine license, which license shall be issued for his principal place of business in Montana. A duplicate license may be issued for one subwarehouse only in Montana for each table wine distributor's license. The duplicate license shall at all times be prominently displayed at said subwarehouse. A table wine distributor may also hold a license to sell beer at wholesale but shall not hold or have any interest, direct or indirect, in any license to sell beer, table wine, or liquor at retail.

(6) If the applicant is a foreign corporation, the corporation must be authorized to do business in Montana."

Section 24. Section 16-4-201, MCA, is amended to read:

"16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail (an all-beverages license) in

accordance with the provisions of this code and the rules of the department may be issued to any person who is approved by the department as a fit and proper person to sell such beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of such cities and towns shall be determined on the basis of population prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of such towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 3,000 inhabitants and within a distance of 5 miles from the corporate limits of such cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of over 3,000 inhabitants and within a distance of 5 miles from the corporate limits thereof, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants.

(2) The number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing

within a distance of 5 miles from the corporate limits thereof, shall govern the number of retail licenses that may be issued for use within such cities and towns and within a distance of 5 miles from the corporate limits thereof. If two or more incorporated municipalities are situated within a distance of 5 miles from each other, the total number of retail licenses that may be issued for use in both of such municipalities and within a distance of 5 miles from their respective corporate limits shall be determined on the basis of the combined populations of both of such municipalities and may not exceed the foregoing limitations. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(3) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209, which are in excess of the foregoing limitations shall be renewable, but no new licenses may be issued in violation of such limitations.

(4) Such limitations do not prevent the issuance of a nontransferable and nonassignable (as to ownership only) retail license to an enlisted men's, noncommissioned officers', or officers' club located on a state or federal

military reservation on May 13, 1985, or to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if such veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

(5) The number of retail all-beverages licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits thereof may not be more than one license for each 750 population of the county after excluding the population of incorporated cities and incorporated towns in such county."

Section 25. Section 16-4-202, MCA, is amended to read:

"16-4-202. Resort licenses. (1) It is the intent and purpose of this section to encourage the growth of quality recreational resort facilities in undeveloped areas of the state and to provide for the orderly growth of existing recreational sites by the establishment of resort areas within which retail ~~liquor~~ all-beverages licenses may be issued by the department under the terms and as more particularly prescribed below. In addition to the licenses as otherwise set forth in this code, the department may issue resort retail ~~liquor~~ all-beverages licenses in a resort area.

(2) For the purposes of this section, a resort area is defined as a recreational facility meeting the qualifications determined by the department as hereinafter provided.

(3) The department shall determine that the area for which licenses are to be issued is a resort area, such determination to be made under and pursuant to rules to be first promulgated on or before December 31, 1975.

(4) In addition to the other requirements of this code, a resort area, for the purposes of qualification for the issuance of a resort retail ~~liquor~~ all-beverages license, must have a current actual valuation of resort or recreational facilities, including land and improvements thereon, of not less than $500,000, at least half of which valuation must be for a structure or structures within the resort area, and must be under the sole ownership or control of one person or entity at the time of the filing of the resort area plat referred to in subsection (5) of this section. The word control shall mean lands held under lease, option, or permit.

(5) The resort area must be determined by the resort developer or landowner by a plat setting forth the resort boundaries, designating the ownership of the lands within the resort area, which plat must be verified by the resort developer or landowner and filed with the department prior

to the filing of any applications by individuals for licenses within the resort area. Such plat must show the location and general design of the buildings and other improvements to be built in said area in which resort retail ~~liquor~~ all-beverages licenses are to or may be located. A master plan for the development of the area may be filed by the resort developer in satisfaction of this section.

(6) Upon such filing the department shall forthwith schedule a public hearing to be held in Helena, Montana, to determine whether the facility proposed by the resort developer or landowner is a resort area within the meaning of the rules of the department. At least 30 days prior to the date of the hearing, the department shall publish notice thereof, with a description of the location of the proposed resort area, in a newspaper published in the county or counties in which the resort is located, once a week for 4 consecutive weeks. Each resort developer or landowner shall, at the time of filing his application, pay to the department an amount sufficient to cover the costs of said publication.

(7) Persons may present statements to the department at the hearing in person or in writing in opposition or support of the plat.

(8) Within 30 days of the hearing, the department shall accept or reject the plat. If rejected the department

must state its reasons and set forth the conditions, if any, under which the plat will be accepted, and the decision of the department may be reviewed pursuant to the review procedure set forth in 16-4-406.

(9) Once filed with the department, the boundaries of a resort may not be changed without full hearing as above provided and the prior approval of the department, which approval shall be according to public convenience and necessity.

(10) (a) When the department has accepted a plat and a given resort area has been determined, applications may then be filed with the department by persons for the issuance of resort retail ~~liquor~~ all-beverages licenses within the resort area.

(b) Each applicant must submit plans showing the location, appearance, and floor plan of the premises for which application for a license is made.

(c) If an applicant otherwise qualifies for a resort license but the premises to be licensed are still in construction or are otherwise incomplete at the time of such application, the department shall issue a letter stating that the license will be issued at such time as the qualifications for a licensed premises have been met, setting forth such time limitations and requirements as the department may establish.

(11) In addition to the restrictions on sale or transfer of a license as provided in 16-4-204 and 16-4-404, no resort retail ~~liquor~~ all-beverages license may be sold or transferred for operation at a location outside of the boundaries of the resort area.

(12) A resort retail ~~liquor~~ all-beverages license shall not be subject to the quota limitations set forth in 16-4-201, and if the requirements of this section have been met, a resort retail ~~liquor~~ all-beverages license shall be issued by the department on the basis that the department has determined that such license is justified by public convenience and necessity, in accordance with the procedure required in 16-4-207."

Section 26. Section 16-4-208, MCA, is amended to read:

"16-4-208. Airport all-beverages license. (1) The department of revenue shall issue one all-beverages license, to be known as a public airport all-beverages license, for use at each publicly owned airport served by scheduled airlines and enplaning and deplaning a minimum total of 20,000 passengers annually when:

(a) application is made;

(b) upon finding that this license is justified by public convenience and necessity, including the convenience and necessity of the public traveling by scheduled airlines; and

(c) following a hearing as provided in 16-4-207.

(2) Application shall be made by the agency owning and operating the airport. The agency owning and operating the airport may lease the airport all-beverages license to an individual or entity approved by the department.

(3) A public airport all-beverages license and all retail ~~liquor~~ alcoholic beverage sales thereunder shall be subject to all statutes and rules governing all-beverages licenses.

(4) The department of revenue shall issue a public airport all-beverages license to a qualified applicant regardless of the number of all-beverages licenses already issued within the all-beverages license quota area in which the airport is situated."

Section 27. Section 16-4-302, MCA, is amended to read:

"16-4-302. Passenger carrier licenses. Common carriers serving Montana may serve ~~beer--and---liquor~~ alcoholic beverages to passengers in aircraft over or railroad cars in the state of Montana upon the issuance of a retail ~~beer-and liquor~~ all-beverages license by the department for that purpose. Such licenses shall be issued on an annual basis to common carriers making application therefor and shall be effective from July 1 of the current year to July 1 of the following year."

Section 28. Section 16-4-401, MCA, is amended to read:

"16-4-401. License as privilege -- criteria for decision on application. (1) A license under this code is a privilege which the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in subsection (6), in the case of a license that permits on-premises consumption, the department must find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant will not possess an ownership interest in more than one establishment licensed under this chapter for all-beverages sales;

(ii) the applicant or any member of his immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of ~~beer, wine, or liquor~~ alcoholic beverages;

(iii) the applicant is a resident of the state and is qualified to vote in a state election;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under the age of 19 years;

and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (2)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a) of this section;

(iii) the corporation is authorized to do business in Montana; and

(iv) in the case of a corporation not listed on a national stock exchange, each owner of stock meets the requirements of subsection (2)(a)(i); and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (2)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (2)(b).

(3) In the case of a license that permits only off-premises consumption, the department must find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant will not possess an ownership interest in more than one establishment licensed under this chapter for all-beverages sales;

(ii) the applicant or any member of his immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of beer~~, wine, or liquor~~ alcoholic beverages;

(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, his rights have been restored;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under the age of 19 years; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (3)(a)(iii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a) of this section; and

(iii) the corporation is authorized to do business in

Montana; and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (3)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (3)(b).

(4) In the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic beverage, the department must find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) in the case of an individual applicant:

(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail alcoholic beverages sales;

(ii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, his rights have been restored;

(iii) the applicant's past record and present status as a purveyor of alcoholic beverages and as a businessman and citizen demonstrate that he is likely to operate his establishment in compliance with all applicable laws of the

state and local governments;

(iv) the applicant is not under the age of 19 years; and

(v) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage; and

(b) in the case of a corporate applicant:

(i) the owners of at least 51% of the outstanding stock meet the requirements of subsection (4)(a)(ii);

(ii) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (4)(a) of this section;

(iii) an applicant for a wholesale license is neither a manufacturer of an alcoholic beverage nor is owned or controlled by a manufacturer of an alcoholic beverage; and

(iv) the corporation is authorized to do business in Montana; and

(c) in the case of any other business entity as applicant:

(i) if the applicant consists of more than one individual, all must meet the requirements of subsection (4)(a); and

(ii) if the applicant consists of more than one corporation, all must meet the requirements of subsection (4)(b).

(5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b) apply separately to each class of stock.

(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302."

Section 29. Section 16-4-404, MCA, is amended to read:

"16-4-404. Protest period -- contents of license -- posting -- privilege -- transfer. (1) No license may be issued until on or after the date set in the notice for hearing protests.

(2) Every license issued under this code shall set forth the name of the person to whom issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under said license, and such other information as the department shall deem necessary. If the licensee is a partnership or if more than one person has any interest in the business operated under the license, the names of all persons in the partnership or interested in the business must appear on the license. Every license must be posted in a conspicuous place on the premises wherein the business authorized under the license is conducted, and such license shall be exhibited upon request to any authorized representative of

the department or to any peace officer of the state of Montana.

(3) Any license issued under the provisions of this code shall be considered a privilege personal to the licensee named in the license and shall be good until the expiration of the license unless sooner revoked or suspended.

(4) A license may be transferred to the executor or administrator of the estate of any deceased licensee when such estate consists in whole or in part of the business of selling ~~liquor~~ alcoholic beverages under a license, and in such event the license may descend or be disposed of with the business to which it is applicable under appropriate probate proceedings.

(5) In the event of a major loss or damage to licensed premises by unforeseen natural causes or in case of expiration of lease of the licensed premises or in the event of eviction or increase of rent by the landlord (in case of rented licensed premises) or in case of proposed removal of license to premises as substantially suited for the retail ~~liquor~~ alcoholic beverages business as the premises vacated, the licensee may apply to the department for a transfer of the license to different premises. The department may in its discretion permit a transfer in such cases if it appears to the department that such a transfer is required to do

justice to the licensee applying for the transfer. The department shall in no event nor for any cause permit a transfer to different premises where the sanitary, health, and service facilities are less satisfactory than such facilities which exist or had existed at the premises from which the transfer is proposed to be made.

(6) Upon a bona fide sale of the business operated under any license, the license may be transferred to a qualified purchaser. No transfer of any license as to person or location shall be effective unless and until approved by the department, and any licensee or transferee or proposed transferee who operates or attempts to operate under any supposedly transferred license prior to the approval of such transfer by the department, endorsed upon the license in writing, shall be considered as operating without a license and the license affected may be revoked or suspended by the department. The department may, within its discretion, permit a qualified purchaser to operate the business to be transferred pending final approval, providing the application for transfer has been filed with the department.

(7) Except as provided in subsections (2) through (6) and 16-4-204, no license shall be transferred or sold nor shall it be used for any place of business not described in the license; provided, however, that such license may be

subject to mortgage and other valid liens, in which event the name of the mortgagee, upon application to and approval of the department, must be endorsed on the license."

Section 30. Section 16-4-405, MCA, is amended to read:

"16-4-405. Denial of license. (1) The department may deny the issuance of a retail ~~beer--or--all-beverages~~ alcoholic beverages license if it determines that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.

(2) No retail license may be issued by the department for any premises situated within any zone of such city or town where the sale of ~~beer-or-liquor~~ alcoholic beverages is prohibited by ordinance, a certified copy of which has been filed with the department.

(3) Nor may a license under this code be issued if the department finds from the evidence at the hearing that the welfare of the people residing in the vicinity of the place for which such license is desired will be adversely and seriously affected or that the purposes of this code will not be carried out by the issuance of such license."

Section 31. Section 16-4-411, MCA, is amended to read:

"16-4-411. Appeals concerning ~~liquor---and----beer~~ alcoholic beverages laws. (1) Any interested party shall have the right to appeal any decision of the department of revenue concerning the issuance, transfer, suspension, or

revocation of ~~beer-or-liquor~~ alcoholic beverages licenses to the district court in the county in which the issuance, transfer, suspension, or revocation occurred or, at the appellant's option, in the district court of the first judicial district.

(2) The appeal must be in conformity with the provisions of Title 2, chapter 4, part 7."

Section 32. Section 16-4-501, MCA, is amended to read:

"16-4-501. License and permit fees. (1) Each beer licensee licensed to sell either beer or table wine only, or both beer and table wine, under the provisions of this code, shall pay an annual license fee as follows:

(a) each brewer and each beer importer, wherever located, whose product is sold or offered for sale within the state, $500; for each storage depot, $400;

(b) each beer wholesaler, $400; each table wine distributor, $400; each subwarehouse, $400;

(c) each beer retailer, $200; ~~with--a--wine--license amendment;-an-additional-$200;~~

(d) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license; for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction with beer, $200;

(e) any unit of a nationally chartered veterans'

organization, $50.

(2) The permit fee under 16-4-301(1) is computed at the rate of $15 a day for each day beer and table wine are sold at those events lasting 2 or more days but in no case be less than $30.

(3) The permit fee under 16-4-301(2) is $10 for the sale of beer and table wine only or $20 for the sale of all alcoholic beverages.

(4) Passenger carrier licenses shall be issued upon payment by the applicant of an annual license fee in the sum of $300.

(5) The annual license fee for a license to sell wine on the premises, when issued as an amendment to a beer-only license pursuant to 16-4-105, is $200.

(6) The annual fee for resort retail ~~liquor~~ all-beverages licenses within a given resort area shall be $2,000 for each license.

(7) Each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:

(a) except as hereinafter provided, for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, $250 for a unit of a nationally chartered veterans' organization and $400 for all other licensees;

(b) except as hereinafter provided, for each license in incorporated cities with a population of more than 2,000 and less than 5,000 or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, $350 for a unit of a nationally chartered veterans' organization and $500 for all other licensees;

(c) except as hereinafter provided, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, $500 for a unit of a nationally chartered veterans' organization and $650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, $650 for a unit of a nationally chartered veterans' organization and $800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the

premises to be licensed to the nearest boundary of such city or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and shall be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and shall be paid by the applicant.

(f) an applicant for the issuance of an original license to be located in areas described in subsection (d) of this subsection shall provide an irrevocable letter of credit from a financial institution that guarantees that applicant's ability to pay a $20,000 license fee. A successful applicant shall pay a one-time original license fee of $20,000 for any such license issued. The one-time license fee of $20,000 shall not apply to any transfer or renewal of a license duly issued prior to July 1, 1974. All licenses, however, are subject to the annual renewal fee.

(8) The fee for one all-beverage license to a public airport shall be $800. This license is nontransferable.

(9) The license fees herein provided for are exclusive of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages.

(10) In addition to other license fees, the department of revenue may require a licensee to pay a late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year, 66 2/3% of any license fee delinquent on August 1 of the renewal year, and 100% of any license fee delinquent on September 1 of the renewal year."

Section 33. Section 16-6-104, MCA, is amended to read:

"16-6-104. Unlawful alcoholic beverage -- seizure -- forfeiture. (1) Any investigator or peace officer who finds an alcoholic beverage which he has reasonable cause to believe is had or kept by any person in violation of the provisions of this code may forthwith seize and remove the same and the packages in which the alcoholic beverage is kept, and upon conviction of the person, the alcoholic beverage and all packages containing the same shall, in addition to any other penalty prescribed by this code, ipso facto be forfeited to the state of Montana.

(2) Any beer which has been shipped into Montana and has not been shipped to and distributed from a warehouse of a licensed wholesaler shall be seized by any peace officer or representative of the department and may be confiscated in the manner as provided for the confiscation of

~~intoxicating liquor~~ alcoholic beverages."

Section 34. Section 16-6-301, MCA, is amended to read:

"16-6-301. Transfer, sale, and possession of alcoholic beverages -- when unlawful. (1) Except as provided by this code, no person shall, within the state, by himself, his clerk, servant, or agent, expose or keep for sale or, directly or indirectly or upon any pretense or upon any device, sell or offer to sell or, in consideration of the purchase or transfer of any property or for any other consideration or at the time of the transfer of any property, give to any other person any ~~liquor~~ alcoholic beverage.

(2) No person shall have or keep any ~~liquor within the state~~ alcoholic beverage which has not been purchased ~~from~~ within the state of Montana. Nothing in this code shall prohibit any person entering this state from any other state or from any foreign country from having in his possession not to exceed 3 wine gallons of alcoholic ~~liquor or beer~~ beverage which ~~liquor or beer~~ beverage shall have been purchased in another state or foreign country, but no person claiming to have so entered the state shall at any time have in his possession more than 3 wine gallons of ~~intoxicating liquor~~ alcoholic beverage which shall not have been purchased ~~from a state liquor store~~ within the state of Montana. This subsection shall not apply to the department

or to the keeping or having of ~~liquor~~ alcoholic beverages by brewers, distillers, and other persons duly licensed by the United States for the manufacture of such ~~liquor~~ alcoholic beverages or to the keeping or having of any proprietary or patent medicines or of any extracts, essences, tinctures, or preparations where such having and keeping is authorized by this code.

(3) Nothing contained in this section shall apply to the possession by a sheriff or his bailiff of ~~liquor~~ alcoholic beverages seized under execution or other judicial or extrajudicial process or to sales under executions or other judicial or extrajudicial process to the department or~~,-in-the-case-of-beer,-to-a-brewer,--beer--licensee,--club licensee,-or-canteen-licensee~~ a licensee.

(4) Except as provided in this code, no person shall, within the state, by himself, his clerk, servant, or agent:

(a) attempt to purchase any alcoholic beverage;

(b) directly or indirectly or upon any pretense or device, purchase any alcoholic beverage; or

(c) in consideration of the sale or transfer of any property or for any other consideration or at the time of the transfer of any property, take or accept from any other person any alcoholic beverage."

Section 35. Section 16-6-305, MCA, is amended to read:

"16-6-305. Age limit for sale of alcoholic beverages.

(1) Except in the case of an alcoholic beverage given to a person under 19 years of age by his parent or guardian for beverage or medicinal purposes or administered to him by his physician or dentist for medicinal purposes or sold to him by a vendor or druggist upon the prescription of a physician, no person shall sell, give, or otherwise supply an alcoholic beverage to any person under 19 years of age or permit any person under that age to consume an alcoholic beverage.

(2) Any person shall be guilty of a misdemeanor who:

(a) invites a person under the age of 19 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for such person;

(b) permits such person in a public place where an alcoholic beverage is sold to treat, give, or purchase ~~liquor~~ alcoholic beverages for him; or

(c) holds out such person to be 19 years of age or older to the owner of the establishment or his or her employee or employees.

(3) It is unlawful for any person to fraudulently misrepresent his or her age to any dispenser of alcoholic beverages or to falsely procure any identification card or to alter any of the statements contained in any identification card."

Section 36. Section 16-6-306, MCA, is amended to read:

"16-6-306. Bottle clubs prohibited. The operation of ~~beer-or-liquor-or~~ alcoholic beverage bottle clubs is hereby prohibited by any person, persons, partnership, firm, corporation, or association. A bottle club is defined as any person, persons, partnership, firm, corporation, or association maintaining premises not licensed for the sale of ~~beer-or-liquor~~ alcoholic beverages, for a fee or other consideration, including the sale of food, mixes, ice, or any other fluids for alcoholic ~~liquors~~ beverages, or otherwise furnishing premises for such purposes and from which they would derive revenue."

Section 37. Section 16-6-309, MCA, is amended to read:

"16-6-309. ~~liquor~~ Alcoholic beverages administered to institution inmates. No ~~liquor~~ alcoholic beverage shall be administered by any person under 16-1-204 except to bona fide patients or inmates of the institution of which he is in charge, and every person in charge of an institution who administers ~~liquor~~ alcoholic beverages in evasion or violation of this code shall be guilty of an offense against this code."

Section 38. Section 16-6-312, MCA, is amended to read:

"16-6-312. Premises where ~~liquor~~ alcoholic beverages illegally sold public nuisance. Any room, house, building, boat, vehicle, structure, or place where alcoholic beverages are knowingly manufactured, sold, or bartered in violation

of this code or 45-8-111 and all property knowingly kept and used in maintaining the same is hereby declared to be a public nuisance, and any person who maintains such a nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than $100 or more than $500 and be imprisoned not less than 30 days or more than 6 months."

Section 39. Section 16-6-313, MCA, is amended to read:

"16-6-313. Injunction actions. An action to enjoin any nuisance defined in this code may be brought in the name of the state of Montana by the attorney general of the state or by any county attorney. Such action shall be brought and tried as an action in equity and may be brought in any court having jurisdiction to hear and determine equity cases. If it is made to appear, by affidavits or otherwise, to the satisfaction of the court or judge in vacation that such nuisance exists, a temporary writ of injunction shall forthwith issue restraining the defendant from conducting or permitting the continuance of such nuisance until the conclusion of the trial. If a temporary injunction is prayed for, the court may issue an order restraining the defendant and all other persons from removing or in any way interfering with the fixtures or other things used in connection with the violation of this code constituting such nuisance. No bond shall be required in instituting such

proceedings. It shall not be necessary for the court to find the property involved was being unlawfully used at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that no ~~liquor--or--beer~~ alcoholic beverages shall be manufactured, sold, or bartered in such room, house, building, boat, vehicle, structure, or place or any part thereof. Upon judgment of the court ordering such nuisance to be abated, the court may order that the room, house, building, structure, boat, vehicle, or place shall not be occupied or used for 1 year thereafter. The court may, in its discretion, permit it to be occupied or used if the owner, lessee, tenant, or occupant thereof shall give bond with sufficient surety, to be approved by the court making the order, in the penal and liquidated sum of not less than $500 or more than $1,000, payable to the state of Montana and conditioned that ~~liquor-or-beer~~ alcoholic beverages will not thereafter be manufactured, sold, or bartered therein or thereon and that he will pay all fines, costs, and damages that may be assessed for any violations of this code upon said property."

NEW SECTION. Section 40. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. SECTION 41. COORDINATION. IF HOUSE BILL NO. 313, (LC 481), (LC 1194) OR ANY OTHER LEGISLATION ENACTED BY THE 50TH LEGISLATURE DELETES OR MODIFIES THE AUTHORITY OF THE DEPARTMENT OF REVENUE TO IMPORT AND SELL TABLE WINE, ANY AMENDMENT IN THIS ACT THAT ADDS THE PHRASE "AND TABLE WINE" AFTER THE WORD "LIQUOR" IS VOID TO THE EXTENT SUCH AMENDMENTS CONFLICT WITH THE SUBSTANTIVE POLICY REGARDING TABLE WINE CONTAINED IN SUCH OTHER ACT. THE CODE COMMISSIONER, IN CONSULTATION WITH THE AGENCY ADMINISTERING THE LIQUOR LAWS, SHALL DELETE SUCH VOID AMENDMENTS ENACTED IN THIS ACT FROM THE NEXT PUBLICATION OF THE MONTANA CODE ANNOTATED.

-End-